

## SAGUS SPEAKS



This Newsletter covers key Regulatory & Policy Updates, Government Notifications and Judicial Pronouncements.

### REGULATORY AND POLICY UPDATES

#### **SEBI introduces Single Window Automatic and Generalised Access for Trusted Foreign Investors (SWAGAT-FI) framework for FPIs and FVCIs**

The Securities and Exchange Board of India (“SEBI”) has issued two circulars dated 16.01.2026, namely, circular on the Single Window Automatic and Generalised Access for Trusted Foreign Investors (“SWAGAT-FI”) framework for Foreign Portfolio Investors<sup>1</sup> (“FPI Circular”) and circular on the SWAGAT-FI framework for Foreign Venture Capital Investors<sup>2</sup> (“FVCI Circular”). The FPI Circular and the FVCI Circular are hereinafter collectively referred to as the “SWAGAT-FI Circulars”.

<sup>1</sup> Single Window Automatic and Generalised Access for Trusted Foreign Investors (SWAGAT-FI) framework for FPIs.

Under the FPI Circular, SWAGAT-FI eligibility is available to: (i) government and government-related investors; (ii) appropriately regulated mutual funds or unit trusts open to retail investors and operating as diversified blind pools with independent investment managers; (iii) appropriately regulated insurance companies investing proprietary funds without segregated portfolios; and (iv) appropriately regulated pension funds. In addition, the applicant must be a public retail fund established in an identified jurisdiction and regulated by a recognised authority, as may be specified in the standard operating procedure framed by the Custodians and Designated Depository Participants Standards Setting Forum (“CDSSF”) in consultation with SEBI.

Eligible existing FPIs may convert to SWAGAT-FI FPIs through their Designated Depository Participants

<sup>2</sup> Single Window Automatic and Generalised Access for Trusted Foreign Investors (SWAGAT-FI) framework for FVCIs.

(“DDPs”). Depositories are required to provide a unified accounting and investment framework enabling SWAGAT-FI investors to hold securities acquired as FPIs, FVCIs or as foreign investors in investment vehicle units in a consolidated manner.

The FVCI Circular permits a SWAGAT-FI applicant to seek FVCI registration concurrently with FPI registration without a separate application or additional documentation, subject to appointment of the same custodian and DDP for both registrations. Existing FVCIs meeting the SWAGAT-FI FPI eligibility criteria may similarly convert to SWAGAT-FI status through their DDPs, subject to the same custodian and DDP condition.

The SWAGAT-FI Circulars will come into effect from 01.06.2026.

### **SEBI introduces Closing Auction Session in the Equity Cash Segment and certain modifications in the Pre-Open Auction Session**

SEBI by way of circular dated 16.01.2026<sup>3</sup> (“CAS Circular”), has introduced a Closing Auction Session (“CAS”) in the equity cash segment and modified the Pre-Open Auction Session framework.

SEBI has decided to introduce CAS to determine the closing price of stocks, replacing the existing Volume Weighted Average Price (“VWAP”) mechanism for securities on which derivative contracts are available. The CAS will operate as a separate 20-minute session from 3:15 PM to 3:35 PM on all trading days, comprising order entry periods, a random close mechanism in the last 2 minutes, and order matching. The closing price will be determined based on an equilibrium price mechanism that maximizes executable volume.

Key features include a +/- 3% price band from the reference price (calculated based on VWAP between 3:00 PM to 3:15 PM), allowance of only limit and market orders (with market orders receiving priority), and carrying forward of eligible unexecuted limit orders from the Continuous Trading Session. The Pre-Open Auction Session has also been modified to align with the CAS framework, including revised timings and order execution priorities.

SEBI has directed stock exchanges and clearing corporations to formulate standard operating procedures

<sup>3</sup> Introduction of Closing Auction Session (CAS) in the Equity Cash Segment and certain modifications in the Pre-Open Auction Session.

within 30 days, implement CAS from 03.08.2026, and implement Pre-Open Session changes from 07.09.2026.

### **SEBI issues SEBI (Issue and Listing of Non-Convertible Securities) (Amendment) Regulations, 2026**

SEBI by way of notification dated 20.01.2026, has notified the SEBI (Issue and Listing of Non-Convertible Securities) (Amendment) Regulations, 2026<sup>4</sup> (“NCS Amendment Regulations”) to amend the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021.

The NCS Amendment Regulations introduce the following key changes:

- (a) A new definition has been inserted defining “retail individual investor” as an individual investor who applies or bids for debt securities for a value of not more than INR 2 Lakhs.
- (b) NCS Amendment Regulations also permit issuers to offer incentives in the form of additional interest or a discount to the issue price to the following categories of investors, namely, senior citizen, women, serving and retired defence personnel, widows and widowers of defence personnel, retail individual investors, and any other category of investors as may be specified by SEBI from time to time. However, such incentives shall be available only to the initial allottee and shall not be applicable in case the debt securities are transferred or transmitted post allotment.

The NCS Amendment Regulations came into force from 20.01.2026.

### **SEBI issues SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2026**

SEBI by way of notification dated 20.01.2026, has notified the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2026<sup>5</sup> (“LODR Amendment Regulations”), to further amend the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”).

The key amendments introduced by the LODR Amendment Regulations are as follows:

<sup>4</sup> Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) (Amendment) Regulations, 2026.

<sup>5</sup> SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2026.

(a) Increased Threshold for High Value Debt Listed Entities (“HVDLE”)

SEBI has revised the threshold for classification as a HVDLE from INR 1,000 Crores to INR 5,000 Crores of outstanding non-convertible debt securities. This change applies to initial determination of HVDLE status and ongoing compliance requirements.

(b) Issuance of Securities - Shift to Dematerialized Form Only

The listed entities are required to effect credit of securities (rather than issuance of letters of confirmation, receipts, or advice) pursuant to investor service requests in dematerialized form only, within a period of 30 days from the date of receipt of such request along with relevant documents. This represents a shift from the earlier provision which allowed issuance of letters of confirmation/receipts/advice, to now requiring mandatory credit of securities in dematerialized form.

(c) Transfer and Transmission of Securities

The transfer requests for securities will not be processed unless such securities are held in dematerialized form with a depository. Transmission or transposition of securities (whether in physical or dematerialized form) shall be effected only in dematerialized form. However, transfers executed before 01.04.2019 and still held in physical form may be registered subject to conditions specified by SEBI.

(d) Corporate Governance Requirements for HVDLEs

- (i) *Exemptions from Shareholder Approval:* The shareholder approval requirement shall not apply to directors nominated by financial sector regulators, Courts or Tribunals, or debenture trustees registered with SEBI under subscription agreements.
- (ii) *Board and Committee Meeting Frequency:* SEBI has clarified that the minimum meeting frequency requirements are to be calculated on a “financial year” basis (i.e., April to March) rather than a calendar year basis.

(e) HVDLE Related Party Transactions

HVDLEs are now required to comply with the general provisions of Regulation 23 for related party transactions, except Regulation 23(8) and (9).

(f) Material Subsidiaries of HVDLEs

The definition of material subsidiary has been updated to use “turnover or net worth” instead of “income or net worth” for determining materiality thresholds. Further, sale, disposal, or lease of assets between two wholly-owned subsidiaries of an HVDLE is now exempt from the material subsidiary provisions.

The LODR Amendment Regulations came into force on the date of their publication in the Official Gazette, i.e., 20.01.2026.

**DERC notifies DERC (Group Net Metering and Virtual Net Metering for Renewable Energy) (Seventh Amendment) Guidelines, 2025**

The Delhi Electricity Regulatory Commission (“DERC”) by way of notification dated 20.01.2026 has notified the DERC (Group Net Metering and Virtual Net Metering for Renewable Energy) (Seventh Amendment) Guidelines, 2025<sup>6</sup> (“Net Metering Amendment Guidelines”) amending the DERC (Group Net Metering and Virtual Net Metering for Renewable Energy) Guidelines, 2019 (“Principal Net Metering Guidelines”).

The key highlights of the Net Metering Amendment Guidelines are as follows:

- (a) Guideline 3(2) shall now be applicable on all consumers of NCT of Delhi including consumers of single point of supply.
- (b) Guideline 3(6) has been amended to include a proviso 1 which provides that the waiver of Service Line cum Development (“SLD”) by the concerned distribution licensee shall be applicable on 11kV and below network only. Further, proviso 2 provides that the waiver of SLD and network augmentation will be effective until the cumulative capacity does not exceed 110 MW, 100 MW, 30 MW and 10 MW for BSES Rajdhani Power Limited (“BRPL”), Tata Power Delhi Distribution Limited (“TPDDL”), BSES Yamuna Power Limited (“BYPL”) and New Delhi Municipal Council (“NDMC”) respectively for projects under Virtual Net Metering (“VNM”) and Group Net Metering (“GNM”) within the licensed area of the respective distribution licensee.
- (c) Guideline 9(2)(b) has been amended to allow consumers to change the share of credit of electricity

<sup>6</sup> DERC (Group Net Metering and Virtual Net Metering for Renewable Energy) (Seventh Amendment) Guidelines, 2025.

from the renewable energy system, subject to the ratio of procurement. Further, it allows consumers to add new participating service connections to the existing VNM arrangement, upto twice in a financial year with an advance notice of two months.

- (d) Guideline 9(2)(d) has been amended to revise the treatment of surplus energy generation over consumption in a particular time block during a billing cycle, whereby the surplus energy shall now be deemed to have occurred during the 'normal time block' instead of the earlier 'off-peak time block'.

The Net Metering Amendment Guidelines have come into force w.e.f. from the date of publication on the website of DERC, i.e., 20.01.2026.

### **RERC issues RERC (Electricity Supply Code and Connected Matters) (Third Amendment) Regulations, 2026**

The Rajasthan Electricity Regulatory Commission ("RERC"), by its order dated 21.01.2026 in Suo Motu Petition No. 2374/2025<sup>7</sup>, has issued the RERC (Electricity Supply Code and Connected Matters) (Third Amendment) Regulations, 2026 ("RERC Supply Code Amendment"), amending the RERC (Electricity Supply Code and Connected matters) Regulations, 2021 ("Principal RERC Supply Code Regulations"), for publication in the Official Gazette.

The key highlights of the RERC Supply Code Amendment are as follows:

- (a) A new Regulation 6.14 has been introduced into the Principal RERC Supply Code Regulations which enables high tension ("HT") / extra high tension ("EHT") consumers to receive supply from two sources, either for simultaneous operation or as a standby arrangement, subject to technical feasibility and compliance with safety standards. Accordingly, consumers are free to draw power from either source anywhere between zero to their contracted demand. However, the consumer is required to bear all expenses for extension of electric lines and plant for both sources, in addition to applicable schedule of charge payments.
- (b) A new proviso shall be added to existing Schedule-I, 2.2(b) of the Principal RERC Supply Code Regulations which provides that where a consumer

opts for dual-source supply, double the plant cost shall be charged.

The RERC Supply Code Amendment shall come into force from the date of publication in the Official Gazette.

### **DERC invites comments on Draft DERC (Terms and Conditions of Open Access) (Second Amendment) Regulations, 2025**

DERC by way of public notice dated 23.01.2026<sup>8</sup> has invited comments/suggestions/objections on the Draft DERC (Terms and Conditions of Open Access) (Second Amendment) Regulations, 2025<sup>9</sup> ("Draft Open Access Amendment Regulations") dated 14.01.2026, amending the DERC (Terms and Conditions of Open Access) Regulations, 2005 ("Principal Open Access Regulations").

The Draft Open Access Amendment Regulations proposes the insertion of a proviso to Regulation 12(1) of the Principal Open Access Regulations. Regulation 12 of the Principal Open Access Regulations provides for 'Applicable Charges' wherein Regulation 12(1) provides for the charges payable by open access ("OA") customers.

The proposed proviso sought to be added to the Regulation 12(1) provides as follows:

- a. In cases where a person is availing General Network Access ("GNA") or OA, the additional surcharge shall be reduced on a linear basis from the rate applicable in the year in which GNA or OA was granted so that, if it is continued to be availed by this person, the additional surcharge shall get eliminated within four years from the date of grant of GNA or OA.
- b. Person availing GNA or OA shall not be entitled to seek or claim any refund, adjustment or recovery of the additional surcharge already levied or collected under the Principal Open Access Regulations.
- c. The additional surcharge shall be applicable only on those OA consumers who are or have been, consumers of the concerned distribution licensee, and shall not apply to OA consumers to the extent of the contract demand maintained with the distribution licensee.

All stakeholders may submit their comments/suggestions/objections on the Draft Open

<sup>7</sup> Suo-motu petition No. 2374/2025.

<sup>8</sup> Public Notice inviting comments on Draft DERC (Terms and Conditions of Open Access) (Second Amendment) Regulations, 2025.

<sup>9</sup> Draft DERC (Terms and Conditions of Open Access) (Second Amendment) Regulations, 2025.

Access Amendment Regulations to DERC latest by 12.02.2026, 5:00 P.M.

### GOVERNMENT NOTIFICATIONS

#### **MoP notifies Amendments in Supplementary Guidelines for payment of compensation in regard to Right of Way for transmission lines**

The Ministry of Power (“MoP”), Government of India, by its notification dated 15.12.2025 (uploaded on the MoP website on 20.01.2026), has notified amendments in supplementary guidelines for payment of compensation in regard to right of way (“RoW”) for transmission lines<sup>10</sup> (“Amended RoW Guidelines”), which was issued on 21.03.2025 (“Principal RoW Guidelines”).

The Amended RoW Guidelines revise the land valuation methodology by directing the Market Rate Committee (“MRC”) to engage land valuers empanelled with the Insolvency and Bankruptcy Board of India (“IBBI”), preferably from the same State or, where unavailable, from adjoining States. The MRC must appoint three valuers, i.e., one nominated by the representative of affected landowners, one by the transmission service provider (“TSP”), and one by the District Magistrate (“DM”). Further, the valuers are mandated to submit their valuation reports in sealed envelopes directly to the DM within 21 days of nomination. Thereafter, two valuation reports are to be selected through a lottery system for determining the reference market rate.

The Amended RoW Guidelines further provide that where the difference between the two selected valuations is less than 20% over the lower value, the average of the two values shall be adopted as the reference market rate. Where the difference exceeds 20% over the lower value, the reference rate may be fixed at 10% above the lower valuation, failing which the third valuer’s report shall be considered, and the average of the two lowest valuations shall be taken. The assessed reference market rate shall form the basis for final compensation determination by the MRC. Additionally, professional fees of all valuers shall be borne by the TSP through a due process mechanism and treated as part of the RoW compensation cost.

### JUDICIAL PRONOUNCEMENTS

#### **Supreme Court holds that the publication of delegated legislation is indispensable to its enforceability**

<sup>10</sup> Amendments in Supplementary Guidelines for payment of compensation in regard to Right of Way for transmission lines.

<sup>11</sup> S.L.P. (C) No. 1979 of 2019.

The Supreme Court of India, by its order dated 21.01.2026 in the matter of *Viraj Impex Private Limited v. Union of India & Another*<sup>11</sup>, held that a notification issued as delegated legislation acquires the force of law only upon its publication in the Official Gazette.

The court observed that the notification, i.e., the delegated legislation herein, unlike plenary legislation enacted by the Parliament, is framed in the executive chambers without open legislative debate. The requirement of publication in the Official Gazette, therefore, serves a dual constitutional purpose, i.e., (a) it ensures accessibility and notice to those governed by the law, and (b) it ensures accountability and solemnity in the exercise of delegated legislative power. The requirement of publication in the Gazette, is therefore not an empty formality. It is an act by which an executive decision is transformed into law. Further, the court also observed that once the legislature has prescribed the specified mode of promulgation, the executive cannot introduce an alternative mode and attribute legal consequences to it.

Therefore, the court held that the notification of the Directorate General of Foreign Trade, though uploaded on its website on 05.02.2016, acquired the force of law only upon its publication in the Official Gazette, i.e., on 11.02.2016.

#### **Supreme Court holds that NCLT cannot adjudicate on disputes pertaining to trademark ownership if not related to insolvency proceedings**

The Supreme Court of India, by its judgment dated 22.01.2026, in the matter of *Gloster Limited v. Gloster Cables Limited & Ors.*<sup>12</sup>, held that the National Company Law Tribunal (“NCLT”) cannot adjudicate dispute on the ownership of a trademark if it is not related to the insolvency proceedings and cannot grant a declaration contrary to the terms of a resolution plan approved by the Committee of Creditors (“COC”) and the NCLT itself.

In the present case, NCLT Kolkata held that the trademark “Gloster” was the asset of the Corporate Debtor, i.e., Fort Gloster Industries Limited and therefore, the Successful Resolution Applicant (“SRA”), i.e., Gloster Limited, having taken over the Corporate Debtor, became entitled to the said trademark. On an appeal filed before the National Company Law Appellate Tribunal (“NCLAT”) by Gloster Cables Limited (“GCL”), it was held that the trademark “Gloster” vested with GCL by execution of a Supplemental Trademark Agreement for assignment of the trademark,

<sup>12</sup> Civil Appeal No. 2996 of 2024 with Civil Appeal No. 4493 of 2024.

subject to the condition that it became effective after restraint order passed by Board for Industrial and Financial Reconstruction (“BIFR”) under the Sick Industrial Companies (Special Provisions) Act, 1985 was vacated.

The court held that NCLT cannot, in exercise of its powers under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 (“IBC”), decide on the issue of the title of the trademark since it is not in relation to the insolvency proceedings. It was held that a resolution plan approved by the COC and ultimately, by NCLT is the charter by which stakeholders are governed. Any grant of further rights over and above what is recognized in the resolution plan would amount to modification or alteration of the approved resolution plan. Accordingly, the court held that the findings of NCLT Kolkata in the present case is in gross violation of the principles of natural justice and the observations of the NCLAT to the effect that the trademark vests with GCL cannot be sustained as it is a matter over which NCLT could not have enquired into considering the facts and circumstances.

### **High Court of Delhi holds that police cannot debit-freeze bank accounts without Magistrate’s order**

The High Court of Delhi, by its order dated 16.01.2026, in the matter of *Malabar Gold and Diamond Limited & Ors. v. Union of India & Ors.*<sup>13</sup>, held that investigating agencies do not have power under Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”) to debit-freeze or attach bank accounts. The court held that freezing or attachment of bank accounts can be carried out only under Section 107 of the BNSS, pursuant to an order of a competent Magistrate, after following the procedure.

Malabar Gold and Diamond Limited (“MGDL”) and its group entities were constrained to approach the High Court of Delhi after their bank accounts were placed on debit freeze pursuant to a communication issued by the police in connection with a cyber-fraud investigation involving third-party transactions.

The court examined the provisions of Sections 106 and 107 of BNSS and held that Section 106 of BNSS permits seizure of property for evidentiary purposes only and does not authorise attachment or debit-freezing of bank accounts. Attachment or freezing of bank accounts to secure alleged proceeds of crime must be undertaken only under Section 107 of the BNSS, and only pursuant to an order of the jurisdictional Magistrate. Further, freezing of accounts of persons who are neither accused nor suspects, without judicial authorisation, is impermissible, as it is manifestly arbitrary and violate the fundamental rights as enshrined under Articles 19(1)(g) and 21 of the

Constitution of India, 1950, considering the fact that no First Information Report (“FIR”) or criminal proceedings existed and no notice had been issued. Accordingly, since no material had been placed to show complicity of MGDL in the alleged fraud, the court directed defreezing of the bank accounts.

### **APTEL awards compensation for solar power injected into grid during wrongful denial of open access**

The Appellate Tribunal for Electricity (“APTEL”), by its judgment dated 19.01.2026, in the matter of *M/S JK Minerals v. Madhya Pradesh Electricity Regulatory Commission & Ors.*<sup>14</sup>, held that JK Minerals is entitled to compensation for electricity injected into the grid during the intervening period from 15.09.2017 to 10.05.2018, on account of the refusal of Long-Term Open Access (“LTOA”), and has directed payment of compensation at average power purchase costs (“APPC”) rates along with carrying cost.

JK Minerals approached the Madhya Pradesh Electricity Regulatory Commission (“MPERC”) seeking LTOA for supply of power to a third-party consumer, which was initially denied by the distribution licensee on grounds of network congestion, despite the generator and consumer undertaking to restrict drawal within existing contract demand. During this period, JK Minerals commissioned its solar plant and injected power into the grid pending grant of LTOA, pursuant to a utility communication permitting injection free of cost until LTOA approval. MPERC initially rejected LTOA. On an appeal filed by JK Minerals, APTEL remanded the matter back to MPERC as the order passed by MPERC was cryptic and non-speaking. Upon remand, MPERC granted LTOA on the same conditions earlier proposed by the generator but refused compensation for the intervening period.

APTEL held that the generator had been deprived of revenue due to an earlier erroneous order of MPERC, and that the distribution licensee had consumed and benefited from the injected solar power without payment. Applying the principles of unjust enrichment and quasi-contract, APTEL held that the distribution licensee could not retain the benefit of such power without compensating the generator. Further, since the generator had agreed to inject power free of cost until grant of open access and no power purchase agreement (“PPA”) existed between the parties, APTEL directed compensation at APPC rates of the distribution licensee for the relevant period along with carrying cost at SBI PLR + 2%.

<sup>13</sup> W.P.(C) 4198/2025 & CM APPL. 19454/2025.

<sup>14</sup> Appeal No. 375 of 2019.

### **CERC holds that change in law and force majeure disputes under PPAs are tariff disputes and cannot be referred to arbitration**

The Central Electricity Regulatory Commission (“CERC”), by its order dated 17.01.2026 in the matter of *MB Power (Madhya Pradesh) Limited v. PTC India Limited and Anr.*<sup>15</sup>, reaffirmed that disputes relating to change in law and force majeure claims under a PPA are tariff disputes falling within CERC’s jurisdiction, and therefore cannot be referred to arbitration.

The petition was filed by MB Power (Madhya Pradesh) Limited (“MB Power”), seeking declarations that (i) its back-to-back short-term PPA with PTC was non-compliant with the Ministry of Power’s Short-Term Bidding Guidelines, (ii) the PPA stood frustrated due to force majeure arising from Coal India’s circular altering coal allocation mechanisms, and (iii) such events also constituted change in law, relieving MB Power from supply obligations and associated liabilities. During proceedings, MB Power sought reference of the matter to arbitration, relying on the judgement dated 28.08.2024 passed by APTEL in *Madhya Pradesh Power Management Co. Ltd. v. DVC and Anr.*<sup>16</sup> (“DVC Judgement”), which held that non-tariff contractual disputes must be referred to arbitration where an arbitration agreement exists.

CERC rejected this plea and held that the primary disputes in the petition concern change in law and force majeure claims, which directly impact tariff and contractual compensation. Applying the DVC judgment, CERC observed that disputes relating to change in law, force majeure and cost impact on tariff are expressly classified as tariff disputes, which fall within CERC’s adjudicatory and regulatory jurisdiction under Section 79(1) of the Electricity Act, 2003 (“EA 2003”). Further, allegations of non-conformity with Short-Term Guidelines also involve regulatory oversight functions vested in CERC and therefore cannot be treated as private contractual dispute referable to arbitration. Accordingly, CERC held that the disputes are not arbitrable, refused to refer the matter to arbitration and directed that the petition will proceed for hearing on merits.

### **CERC holds it has jurisdiction over payment and PPA disputes involving composite generation schemes**

CERC by its order dated 28.01.2026 in the matter of *KSK Mahanadi Power Company Limited v. Southern Power Distribution Company of Andhra Pradesh Limited & Ors.*<sup>17</sup>, reaffirmed that, while CERC has jurisdiction over

tariff related disputes arising from a composite scheme, it can exercise its discretion to refer such disputes to arbitration. In cases where the dispute is non-tariff in nature, such reference to arbitration is mandatory under Section 79(1)(f) of EA 2003.

The generator approached CERC alleging non-payment of tariff, capacity charges and transmission charges and unilateral deductions from invoices by the distribution licensee and also challenged the termination of the PPA. The distribution licensees objected to CERC’s jurisdiction, contending that the disputes were purely contractual money claims, not involving tariff determination or regulation, and therefore ought to be referred to arbitration or adjudicated by the State Commission under Section 86(1)(f) of EA 2003.

CERC rejected the objections and held that once a generating company supplies power under a composite scheme in more than one state, CERC becomes the appropriate commission under Section 79(1)(b) of the EA 2003. Further, ‘regulation of tariff under Section 79 of the EA 2003 includes not only tariff fixation but also matters having a direct bearing on tariff implementation. Accordingly, CERC concluded that it possesses adjudicatory jurisdiction over the present dispute and not the State Commission. However, CERC, while exercising its discretionary power to refer disputes to arbitration under 79(1)(b) read with Section 79(1)(f) of EA 2003, proceeded to refer both tariff related disputes and non-tariff relate disputes to arbitration and directed appointment of arbitrator under Regulation 49(1)(a) of the CERC (Conduct of Business) Regulations, 2023.

<sup>15</sup> Petition No. 71/MP/2023.

<sup>16</sup> 2024 SCC OnLine APTEL 76.

<sup>17</sup> Petition No. 91/MP/2018 and batch.

### ABOUT SAGUS LEGAL

Sagus Legal is a full-service law firm that provides comprehensive legal advisory and advocacy services across multiple practice areas. We are skilled in assisting businesses spanning from start-ups to large business conglomerates including Navratna PSUs, in successfully navigating the complex legal and regulatory landscape of India. Our corporate and M&A, dispute resolution, energy, infrastructure, banking & finance, and insolvency & restructuring practices are ranked by several domestic and international publications. We also have an emerging privacy and technology law practice.

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