

WCC WATCH

YOUR MONTHLY DIGEST TO STAY AHEAD IN THE EVOLVING REALM OF WHITE COLLAR CRIME

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Everlasting, is the essence of WCC Watch's cover story this month, it delves into the labyrinth of PMLA summons post-predicate offence discharge - currently before the Supreme Court of India. The outcome of this case is poised to reshape the future of anti-money laundering enforcement in India.

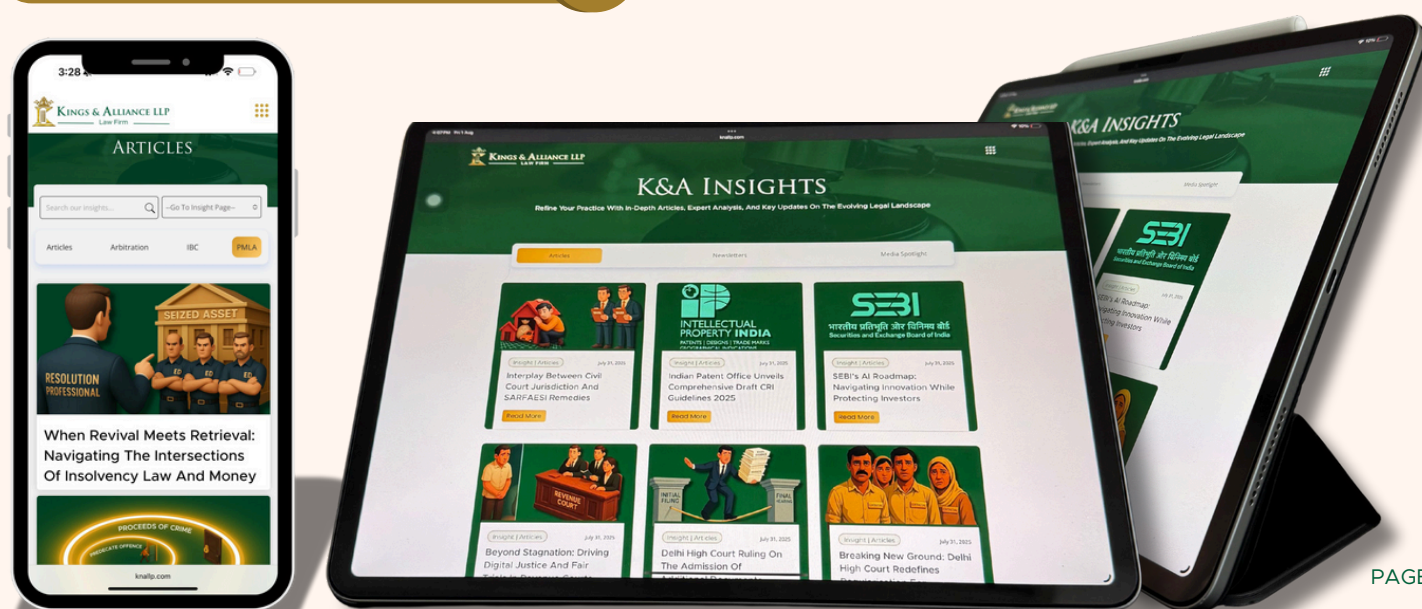
Beyond this, we bring you up to speed on other pivotal legal developments. We cover the Madras High Court's ruling that the Enforcement Directorate (ED) requires a foundational offense to act, and the Bombay High Court's landmark judgment clarifying that new BNS offenses can be the basis for PMLA cases.

We also delve into the intersection of insolvency and money laundering, examining the clash between the IBC and ED's power to attach assets, highlighted by the Kerala High Court's denial of bail in the Chinese Loan App scam. On the corporate front, we dissect the BluSmart case, which illuminates the criminal liability of directors.

Finally, this issue also provides a brief overview of the latest regulatory updates, from India's new fully digital debt recovery system to changes in GST filing and E-Way Bill processes, painting a clear picture of an evolving and increasingly assertive legal landscape.

Let's dive in!

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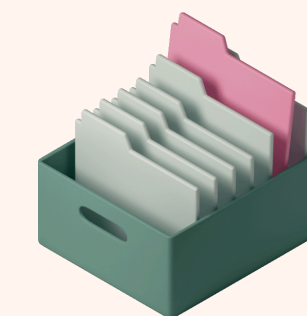
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COVER STORY

Navigating Legal Labyrinth of PMLA Summons Post-Predicate Offence Discharge



unconnected to the scheduled offence but knowingly assisting in the concealment of the proceeds of crime, can be held guilty of committing an offence under Section 3 of the PMLA.

The realm of financial crime is a complex web, and at its heart lies the formidable challenge of combating money laundering. Imagine a sophisticated operation where funds obtained through illicit means – perhaps a large-scale drug trafficking ring or a massive financial fraud – are meticulously routed through a labyrinth of transactions, shell companies, and international accounts, all with the singular aim of making the "dirty" money appear legitimate. This process, known as money laundering, is precisely what the PMLA in India seeks to dismantle.

However, a critical question consistently surfaces within this intricate legal framework: what happens when the very foundation of a money laundering case—the "predicate" offence that generated the illicit funds—collapses? Does a discharge or acquittal in the predicate offence automatically render the PMLA proceedings invalid? This is the high-stakes legal conundrum currently before the Supreme Court of India.

A bench comprising Justices Surya Kant and Joymalya Bagchi is poised to deliberate on this pivotal issue. Their consideration stems from a challenge to a...



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PIVOTAL ISSUES

Reshaping the Global Anti-Corruption Landscape: Decoding the DOJ's Refocused FCPA Enforcement and its Implications for India



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for Indian companies, the window for action is unequivocally now

A significant recalibration of global anti-corruption efforts is underway. On June 9, 2025, following a temporary halt on enforcement activities, the U.S. DOJ unveiled its long-awaited guidance for investigations and enforcement of the FCPA.

This isn't just a re-ignition of past policies; it's a strategic re-orientation, marking a new chapter in how the U.S. will tackle white-collar crime, with a clear directive to safeguard and advance American interests. As Matthew R. Galeotti, Head of the DOJ's Criminal Division, articulated at a recent American Conference Institute conference, the message is unequivocal: "Now is the moment for concerted action."

But what does this revamped approach truly signify, and how will it influence companies operating internationally, particularly those in a dynamic and expanding economy like India?

A Sharper Lens: The Core Principles of New FCPA Enforcement

The essence of the new FCPA guidelines lies in a dual mandate: to "alleviate unnecessary burdens on American businesses operating overseas" and to...



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BluSmart's Shadow: How One Case Illuminated Director's Criminal Liability in Indian Legal Landscape



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There must exist something to show that such [illegal] actions stemmed from their personal involvement.

In a bustling boardroom, gleaming with ambition and innovation. Directors, armed with years of experience and sharp business acumen, make decisions that could steer their company towards unprecedented success. But what if one wrong turn, one oversight, or even an act by a rogue employee, could suddenly transform that polished boardroom into a courtroom, with criminal charges looming over their heads? This isn't a dramatic movie script; it's a stark reality for startup directors and seasoned corporate leaders alike in India, a reality recently underscored by the headlines surrounding the BluSmart scandal.

Earlier this year, the BluSmart controversy sent ripples of unease across the Indian startup ecosystem. Allegations of promoters misleading investors and diverting funds quickly escalated, reminding everyone that a director's signature isn't merely an administrative formality.¹ It's a testament to their legal responsibility, a potential direct line to a judicial summons. But how did we arrive at a point where corporate governance seemingly carries such inherent personal risk?

For centuries, a company has been recognized as a distinct legal entity, a "legal...



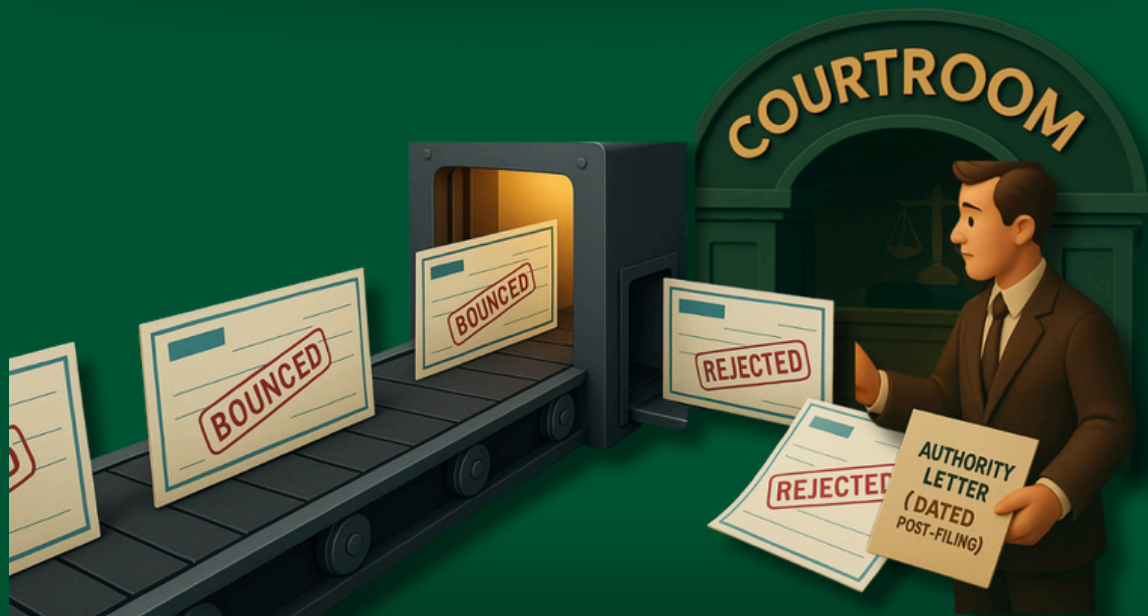
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PIVOTAL ISSUES

The Unyielding Demand: Why Proprietorship Proof is Paramount in Cheque Dishonour Cases



procedural correctness and substantive legal standing are not mere technicalities but foundational pillars for the administration of justice in financial disputes



The hum of a petrol pump, the clatter of a contractor's vehicles – a seemingly mundane transaction, yet one that unexpectedly ignited a legal blaze, casting a spotlight on the meticulous demands of financial law. Imagine a scenario where a significant debt, acknowledged by a cheque, spirals into a legal quagmire not over the debt itself, but over who exactly has the right to claim it. This is precisely the fascinating legal conundrum that recently landed before the Himachal Pradesh High Court in *Shirgul Filling Station Versus Kamal Sharma* unraveling the intricate threads of proprietorship and authorization within the ambit of the NI Act.

At the heart of this dispute lay a cheque for INR 5,00,000/-, allegedly issued to settle a fuel bill by a government contractor to Shirgul Filling Station. When the cheque bounced, Ankur Aggarwal, identifying himself as the Manager of the filling station, swiftly initiated legal proceedings.

But here's where the plot thickened: the cheque was in the name of the filling station, and Mr. Aggarwal's claim to pursue the matter hinged on an authority letter obtained after the legal notice was dispatched and the complaint already filed. Could such a post-facto authorization legitimize his standing as the "payee"...

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PIVOTAL ISSUES

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lacks jurisdiction to interfere with the PAO, which has been subsequently confirmed by the Adjudicating Authority under the PMLA

The paths of the IBC and PMLA, often intertwined, create a legal labyrinth when the very assets needed for a company's financial revival are simultaneously suspected of being the ill-gotten gains of crime. Imagine a failing company teetering on the brink, with creditors hoping the IBC will orchestrate a rescue through a swift resolution process. But what if, at the very same time, ED swoops in, alleging that some of the company's most valuable properties – say, its sprawling factory or its high-tech machinery – are, in fact, "proceeds of crime" and attaches them under the PMLA?

This dramatic scenario immediately sparks a series of intriguing and complex legal skirmishes. Firstly, does this provisional attachment by the ED, aimed at freezing illicit assets, violate the crucial moratorium imposed under Section 14 of the IBC? This moratorium, a foundational pillar of the insolvency process, is designed to provide a calm harbor for the beleaguered corporate debtor, shielding it from all legal actions and asset seizures during the resolution period. Yet, the PMLA's mandate is to track and seize tainted money without delay. Secondly, the legal community grapples with a fundamental question of supremacy: Does the IBC...



SIGNIFICANT CASE LAWS

Madras High Court Reaffirms ED's Limited Jurisdiction: Action Only on Predicate Offences Under PMLA

The Madras High Court, in the case of R.K.M. Powergen Private Limited Vs The Assistant Director and Ors, reaffirmed that the Enforcement Directorate's (ED) authority to investigate is strictly contingent upon the existence of a predicate offence. The bench clarified that the ED cannot operate independently as a “super cop” or initiate investigations based solely on its own suspicions; its jurisdiction is activated only when a specific scheduled offence has occurred, generating identifiable “proceeds of crime.” The court used vivid metaphors, likening the ED’s role to a “limpet mine attached to a ship”—without the ship (predicate offence), the mine (ED’s power) is ineffective. Additionally, the court emphasized that under Section 66(2) of the Prevention of Money Laundering Act (PMLA), if the ED encounters other offences in the course of its investigation, it must refer these to the appropriate agency rather than pursue them on its own. This case arose after RKM Powergen’s bank accounts were frozen based on a CBI investigation into an allegedly illegal coal block allocation. The company contended that it never operated the coal block and thus generated no illicit funds. The High Court found that merely having a CBI chargesheet did not automatically confer jurisdiction on the ED, especially in the absence of clear evidence linking the frozen assets to a predicate offence. Concluding that there was no demonstrable connection between the funds and any crime, the court declared the ED’s freeze order “per se without jurisdiction” and set aside the action, underscoring the necessity of foundational criminal activity for ED intervention.

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SIGNIFICANT CASE LAWS

HC Explains: Powers of ED Post Replacement of IPC with BNS

In a landmark judgment in the case of *Nagani Akram Mohammad Shafi v. Union of India*, the Bombay High Court ruled that predicate offences registered under the newly enacted *Bharatiya Nyaya Sanhita (BNS)*, 2023, can validly form the basis of proceedings under the *Prevention of Money Laundering Act (PMLA)*, 2002, despite the PMLA Schedule referring to offences listed under the now-repealed *Indian Penal Code (IPC)*. Justice Amit Borkar, in a 37-page order, dismissed a bail plea filed by Nagani Akram Mohammad Shafi, who was arrested in a money laundering case involving ₹100 crore allegedly routed through 14 bank accounts in Malegaon. The Enforcement Directorate (ED) had filed an ECIR based on predicate offences under Sections 318(4) (cheating), 338 (forgery of valuable security), and 340(2) (use of forged documents) of the BNS. Shafi contended that since the PMLA Schedule refers specifically to IPC sections and not BNS, the ED lacked jurisdiction to proceed under the PMLA based on BNS offences. However, the Court rejected this claim, emphasizing that such an interpretation would lead to legal absurdity and frustrate the core purpose of the PMLA. The judgment clarified that although the IPC has been repealed, the underlying offences such as cheating, forgery, and criminal conspiracy continue to exist under the BNS, albeit with different section numbers. Justice Borkar invoked Section 8(1) of the *General Clauses Act, 1897*, which provides that references to repealed enactments must be construed as referring to the corresponding provisions in the new law, provided the substance remains the same. Highlighting the need for purposive interpretation, the Court held that reading the PMLA Schedule as frozen in time would allow criminals to exploit a temporary legal vacuum, undermining national interest and the legislative intent behind both PMLA and BNS. The Court asserted that references to IPC offences must now be read dynamically as referring to their equivalents in BNS, for instance, Section 318(4) BNS now stands in for Section 420 IPC (cheating). Justice Borkar also warned against a rigid reading that could render the PMLA partly inoperative, stating that Parliament never intended enforcement to be disrupted due to technical changes in penal law structure. In conclusion, the Court affirmed the continuity and enforceability of PMLA provisions against offences under the BNS and rejected the bail application. This ruling ensures legal consistency and avoids a gap in the prosecution of money laundering cases during the transition from IPC to BNS.



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SIGNIFICANT CASE LAWS

Unfavourable Report No Ground for Fresh Forensic Test: A Case Analysis of Mantesh Kumar v. Shobha Ram

In a recent judgment, the Himachal Pradesh High Court, in Mantesh Kumar Vs Shobha Ram, ruled that an accused cannot seek a second forensic expert's opinion merely because the initial report is unfavourable. The ruling came in the context of a cheque dishonour case under Section 138 of the Negotiable Instruments Act, 1881, where the accused, Mantesh Kumar, had already presented a forensic report in his defence.

Justice Rakesh Kainthla, while dismissing the accused's petition, held that since the forensic expert's report was already part of the trial record and had not been set aside, the Trial Court was justified in refusing a second expert opinion. The Court emphasized that permitting a second expert solely due to dissatisfaction with the first report would not be a valid or fair reason.

The Court further noted that the application seemed to be driven by the accused's belief that the Trial Court was biased, which is an extraneous consideration and does not justify the appointment of another expert. Such a request, the Court concluded, was not bona fide and appeared to be an attempt to delay the proceedings.



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SIGNIFICANT CASE LAWS

Supreme Court Upholds Partnership Continuity: Reinforcing Contractual Clauses in Multi-Partner Firms

In a significant ruling the Supreme Court, in *Indian Oil Corporation & Ors. Vs M/S Shree Niwas Ramgopal & Ors* held that a partnership firm comprising more than two partners does not automatically dissolve upon the death of one partner, provided the partnership deed includes a clause for continuity.

The decision was delivered by a bench comprising Justices Pankaj Mithal and Ahsanuddin Amanullah in the case involving the Appellant, Indian Oil Corporation Ltd. (IOCL), and a Respondent Partnership Firm. The Supreme Court upheld the High Court's ruling, emphasizing that the default dissolution under Section 42 applies primarily to two-partner firms unless otherwise agreed. In firms with more than two partners, dissolution does not automatically occur if the partnership deed provides for continuity.

The Court clarified that: "Though generally a firm dissolves on the death of a partner under Section 42(c), this principle is not absolute and can be contractually overridden where there are more than two partners and the deed specifically provides for continuity."

Therefore, the Court directed IOCL to continue supplying kerosene to the firm until it is duly reconstituted or further orders are passed. The appeal was dismissed, reaffirming the enforceability of partnership agreements and the need to honour contractual clauses governing business continuity. This judgment reinforces the importance of well-drafted partnership deeds and upholds the principle that legal provisions regarding dissolution may be contractually modified to avoid unnecessary business disruption.



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SIGNIFICANT CASE LAWS

Kerala High Court Clarifies: Service of Notice on Relative Insufficient Without Proof of Accused's Knowledge in Cheque Dishonour Cases

In the case of *Saju Vs Shalimar Hardwares and Ors*, the Kerala High Court has clarified that service of notice on a relative of the accused, without proof of the accused's knowledge of such service, is insufficient to initiate proceedings under Section 138 of the Negotiable Instruments Act, 1881.

The ruling reinforces the mandatory requirement of proper service of legal notice before prosecuting an accused for cheque dishonour. Justice P.V. Kunhikrishnan was hearing a revision petition filed by the accused, Saju, who was convicted under Section 138 for issuing a cheque worth ₹92,500 that was dishonoured due to insufficient funds.

Following the dishonour, the complainant had sent the statutory legal notice to the accused, but it was received and acknowledged by a relative of the accused, not the accused himself.

Saju challenged his conviction on the ground that there was no direct or constructive service of the statutory notice to him, as required under Section 138(b) of the Act. He argued that the prosecution failed to prove that he was aware of the notice being received by his relative.

The High Court, after examining the evidence on record, noted that the complainant's witness (PW1) confirmed that the notice was served on the accused's relative. However, there was no evidence or claim that the accused had knowledge of this service, which is a crucial precondition for presuming constructive notice. The Court held: "Service of notice on the relative of the accused is not sufficient, especially when there is no evidence from the side of the complainant that the accused was aware of the service of notice on his relative. If there is no such evidence, it is to be presumed that the statutory notice...is not served on the accused."



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SIGNIFICANT CASE LAWS

Kerala High Court Denies Bail in ₹121 Crore Chinese Loan App Scam: Upholding PMLA Prosecution for Money Laundering

The Kerala High Court recently, in the case of Sayid Muhammed Vs The Directorate of Enforcement, rejected the bail application of Sayid Muhammed, the fifth accused in the high-profile Chinese Loan App Scam, involving alleged violations under the Prevention of Money Laundering Act, 2002 (PMLA). The order was passed by Justice Bechu Kurian Thomas, who noted compelling evidence linking the accused to the laundering and transfer of illegal proceeds generated through cyber fraud and exploitation of digital lending platforms.

The scam involved unauthorized Chinese loan applications that were circulated via social media platforms and direct messaging services like WhatsApp, bypassing legitimate app marketplaces such as the Google Play Store and Apple App Store. These applications were used to illegally grant loans, collect sensitive user data through Android devices, and subsequently extort money from victims using threats and blackmail. According to the Enforcement Directorate (ED), Sayid Muhammed played a critical role by providing infrastructure for laundering the proceeds of the crime. Specifically, he arranged 289 mule bank accounts, allegedly paying ₹5,000 per account, to facilitate transactions for cyber fraudsters. The ED revealed that around ₹121 crore was collected from victims and moved through these mule accounts. The money trail leads to payment aggregators, shell entities, and ultimately to four foreign crypto wallets, allegedly using platforms like WazirX.

The investigation further uncovered that Sayid Muhammed personally managed cryptocurrency transactions amounting to ₹3.47 crore, facilitating outward remittances through foreign crypto wallets. He allegedly received a commission of ₹2 crore, part of which — ₹30 lakh — was distributed among individuals who helped in setting up these mule bank accounts. Moreover, the ED submitted that the accused used layering techniques to conceal the origins of the illicit funds. Some proceeds were routed through shell company accounts under the guise of software imports, which turned out to be fraudulent. These accounts displayed credits from dummy entities and significant debits corresponding to the ₹121 crore, indicating a complex and deliberate money laundering operation.



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SIGNIFICANT CASE LAWS

Supreme Court Clarifies: Liquor Manufacturers Bear Entry Tax for Causing Goods' Entry into Local Areas Under M.P. Entry Tax Act

The Supreme Court, in *M/S United Spirits LTD. Vs The State of Madhya Pradesh & Ors* has upheld the Madhya Pradesh High Court's ruling that manufacturers of beer and Indian Made Foreign Liquor (IMFL) are liable to pay entry tax under the Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam, 1976 (M.P. Entry Tax Act, 1976), for transporting goods into local areas for sale, even when the goods are routed through state-run warehouses.

The case was heard by a bench comprising Justice J.B. Pardiwala and Justice K.V. Viswanathan, and the judgment authored by Justice Viswanathan concluded that the "cause of entry" into the local area was the act of the manufacturers themselves.

This made them the liable party for the imposition of entry tax, as defined under Section 2(3) of the Entry Tax Act. The Court explained that the role of state-run warehouses as intermediaries or supervisors did not shift the point of taxation. The mere fact that warehouses are also considered "dealers" under the Madhya Pradesh VAT Act, 2002 did not alter the liability of manufacturers who originally caused the goods to enter the taxable jurisdiction.

"The appellants by the sale to the warehouse caused the entry of goods... The levy of entry tax on them, which could always be passed on, is perfectly justifiable in law," the Court observed.



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REGULATORY UPDATES

India's Debt Recovery System Goes Fully Digital: A New Era of Efficiency and Transparency

In a landmark move to revolutionize India's debt recovery landscape, the Ministry of Finance has officially unveiled the Debts Recovery Tribunals and Debts Recovery Appellate Tribunals Electronic Filing (Amendment) Rules, 2025. , published in Gazette of India, these groundbreaking rules came into effect immediately upon their notification, marking a definitive and pivotal leap towards mandatory electronic filing across all debt recovery proceedings. These crucial amendments represent a significant evolution of the existing Debts...

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GST's New Era: Precision or Penalty?

A significant transformation is expanding across India's Goods and Services Tax compliance framework. With recent updates issued by the GSTN, a series of new mandates have been ushered in as of July 1, 2025. These changes are meticulously designed to streamline tax administration and plug potential revenue leakages. While the government's primary goal is to enhance accuracy and minimise discrepancies in tax filings, tax experts are clearly sounding the alarm, these sweeping updates are poised to substantially increase the compliance burden on...

GSTN

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