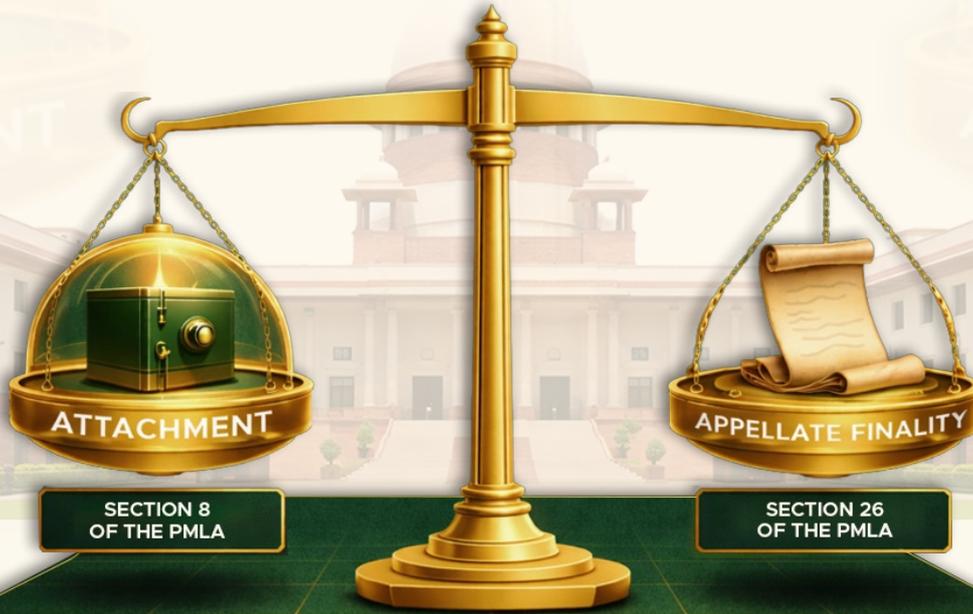


WCC WATCH

Your Monthly Digest to Stay Ahead in the Evolving Realm of White Collar Crime



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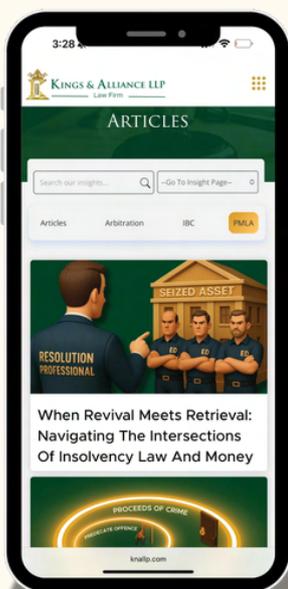
Integrity Over Procedure, our cover story this month captures a fundamental reinforcement of procedural justice under the PMLA, examining how the **Supreme Court has anchored the power of confiscation to the finality of adjudication**. This evolution marks a turning point where the law prioritises the sanctity of appellate rights over premature enforcement, ensuring that the deprivation of property is not just a pursuit of rigour, but a result of due process.

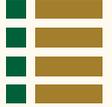
This edition of WCC Watch further explores the **"accountability revolution," where the High Courts are defining the boundaries of "victim rights" in cheque dishonor cases**, ensuring that complainants have an absolute right to appeal rather than being diverted to the limited scope of revision. We also take a fascinating look at the judiciary's efforts to **redefine professional liability, holding bank due diligence agencies** accountable as active participants rather than mere negligent bystanders in credit frauds.

We also navigate the compassionate recalibration of the Negotiable Instruments Act, where courts are increasingly looking for **"Beyond the 20%"** mandate to ensure that financial security requirements do not become an insurmountable barrier for the vulnerable. From decoding the high-stakes tension between individual liberty and custodial interrogation in digital money laundering cases to analyzing the **RBI's 2026 Guarantees Regulations**, this month's digest is designed to help you master the boundaries of modern corporate and criminal liability. As the legal framework moves toward transparency over **technicality and equity over rigid mandates**, we invite you to explore the insights that are keeping the industry ahead of the curve.

Let's dive in.

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COVER STORY

04

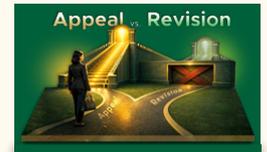
No Confiscation Without Finality: Supreme Court Clarifies Section 8 of PMLA in Nav Nirman Builders



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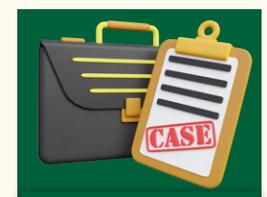
Delhi High Court Clarifies Application of Section 45 Twin Conditions to Anticipatory Bail in Bhaskar Yadav



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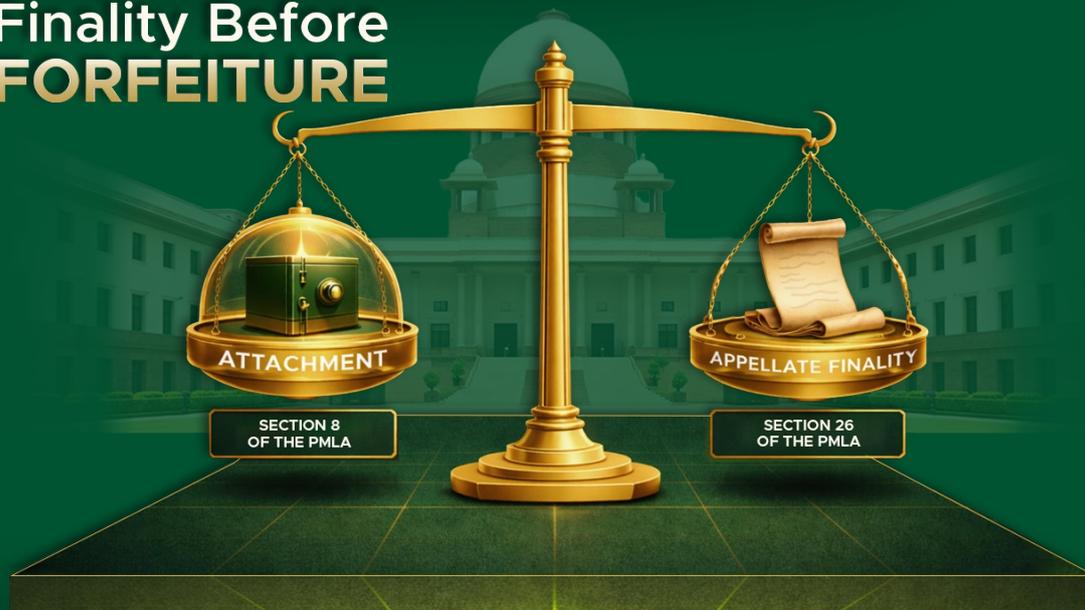
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COVER STORY

No Confiscation Without Finality: Supreme Court Clarifies Section 8 of PMLA in Nav Nirman Builders

Finality Before FORFEITURE



The Prevention of Money Laundering Act, 2002 (PMLA) is a stringent legislative instrument aimed at depriving offenders of the proceeds of crime, while simultaneously embedding a layered adjudicatory and appellate framework to guard against arbitrary deprivation of property. This balance between enforcement rigour and procedural fairness came under scrutiny before the Supreme Court in the case of M/s. Nav Nirman Builders & Developers Pvt. Ltd. v. The Union of India, while examining whether a Special Court under the PMLA can order confiscation of property when an appeal against confirmation of attachment under Section 8(3) is pending before the Appellate Tribunal under Section 26. The controversy raised a fundamental question of procedural finality: whether irreversible civil consequences could be imposed while the legality of attachment itself remained under appellate consideration. The Supreme Court clarified that confiscation is a consequence of final adjudication, not a provisional enforcement measure, and that the Act's rigour must operate strictly within its statutory safeguards.

Analysing Section 8 of the PMLA, the Court noted that provisional attachment under Section 5, once confirmed under Section 8(3), is expressly subject to appeal under Section 26 and a further appeal under Section 42. This appellate framework, the Court emphasised, is integral to the Act's design. Permitting confiscation during the pendency of an appeal would render the remedy under Section 26 illusory, as confiscation extinguishes ownership while attachment merely operates as a protective restraint. The Court's reasoning draws support...

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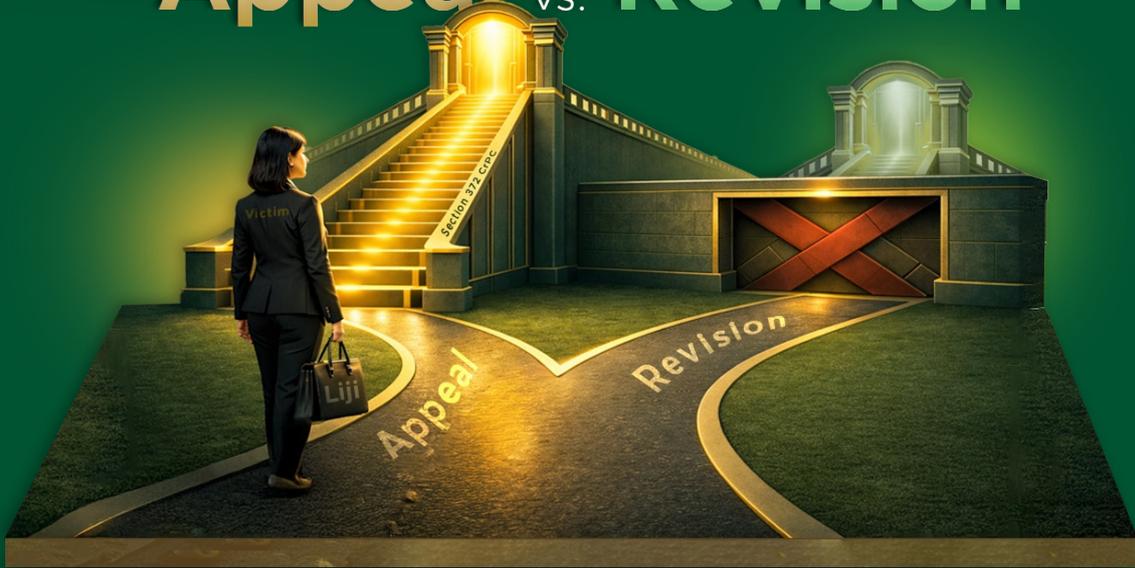
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PIVOTAL ISSUES

The Absolute Right of Appeal: Why Revision is Not a Remedy Against Acquittals in NI Act Complaints

Appeal vs. Revision



The legal landscape surrounding the Negotiable Instruments Act (NI Act) is often a complex intersection of civil liability and criminal penalty. A recurring procedural dilemma for many litigants is determining the appropriate forum and method for challenging a judgment of acquittal. When a trial court or an appellate sessions court clears an accused of charges under Section 138, the complainant is often left at a crossroads: should they seek a revision of the order, or is an appeal the mandated path? This brings us to a critical question: is a Criminal Revision Petition maintainable against a judgment of acquittal in a complaint case where an alternative remedy of appeal exists?.

The answer, as clarified by recent judicial pronouncements, is a definitive no. Under the procedural framework of the Code of Criminal Procedure (CrPC), specifically Section 401(4), if an appeal lies under the Code and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed. This principle ensures that revisionary powers are not used as a substitute for an available appellate remedy. In cases involving the dishonour of cheques, the complainant is recognized not just as an informant, but as a "victim" who has suffered a direct loss due to the act of the accused. As a victim, the complainant possesses a statutory right to prefer an appeal against an acquittal under the proviso to Section 372 of the CrPC. The factual matrix leading to this clarification involved a petitioner, Liji, who had filed two separate complaints under Section 138 of the NI Act. While the initial trial court convicted the accused in both instances...

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PIVOTAL ISSUES

Gatekeepers or Co-Conspirators? Redefining Professional Liability and Criminal Accountability in Bank Due Diligence

NEGLIGENCE VS. CONSPIRACY



In the complex machinery of corporate lending, the integrity of a bank's credit decision often rests upon the shoulders of external due diligence agencies. However, a significant legal boundary exists between a professional lapse and a criminal act. The case of *Vikas Garg & Anr. vs. State Through CBI* highlights that while a simple error of judgment is a civil wrong, the deliberate recording of false facts to facilitate a fraudulent loan transcends mere negligence and enters the realm of criminal conspiracy.

The crisis began in 2013 when a fictitious entity, M/s Shree Balaji Overseas, secured a loan of Rs. 600 lakhs from Corporation Bank using fabricated collateral. Central to this sanction was a favorable Due Diligence Report (DDR) submitted by empanelled professionals. While the report claimed that a physical verification had been conducted and original documents were inspected, subsequent investigations by the CBI revealed a startling reality: the "Finance Executive" had never visited the sites, and the photographs used in the report were recycled from an entirely different entity's file. The petitioners argued that they were merely professionals who relied on provided documents and that any failure was an internal lapse by an employee. The High Court of Delhi disagreed, focusing on the "positive duty" imposed on the agency to "weed out unscrupulous persons." By affirmatively stating they had verified non-existent sites and documents, the agency provided the "factual foundation" for the court to frame charges under the modern legal framework. While the case was originally filed under the Indian Penal Code (IPC), the principles now align with the Bharatiya...

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PIVOTAL ISSUES

When Can Courts Waive Mandatory 20% Deposit under Section 148 NI Act?

Justice vs. Rigidity



Can the mandatory nature of financial security in legal appeals inadvertently become a barrier to justice for the vulnerable? This pressing question lies at the heart of recent judicial deliberations concerning the recovery of debts under the Negotiable Instruments Act. In the case of Arjun Walia vs. Tarun Batra The High Court of Punjab and Haryana was recently called upon to navigate the delicate intersection of statutory mandates and human hardship. The matter began when Arjun Walia, having been convicted in a cheque dishonor case on May 9, 2025, sought to appeal the decision. Under the standard procedural requirements, the Appellate Court in Nuh directed him to deposit 20% of the total compensation awarded by the trial court as a prerequisite for staying his sentence. While this condition is a common fixture in financial litigation, the petitioner challenged it under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, arguing that his personal circumstances made such a financial demand not just difficult, but fundamentally unjust.

The mandatory 20% deposit under Section 148 of the Negotiable Instruments (NI) Act is often viewed as an inflexible prerequisite for filing an appeal. However, the case of Arjun Walia vs. Tarun Batra (2025) highlights that this rule is one of "structured discretion" rather than an absolute mandate. While the landmark ruling in Surinder Singh Deswal vs. Virender Gandhi (2019) established the 20% deposit as the "normal rule" to prevent dilatory tactics by debtors, subsequent jurisprudence has carved out essential exceptions. In Jamboo Bhandari vs. M.P. State Industrial Development Corp. Ltd. (2023) The Supreme Court clarified that if a deposit...

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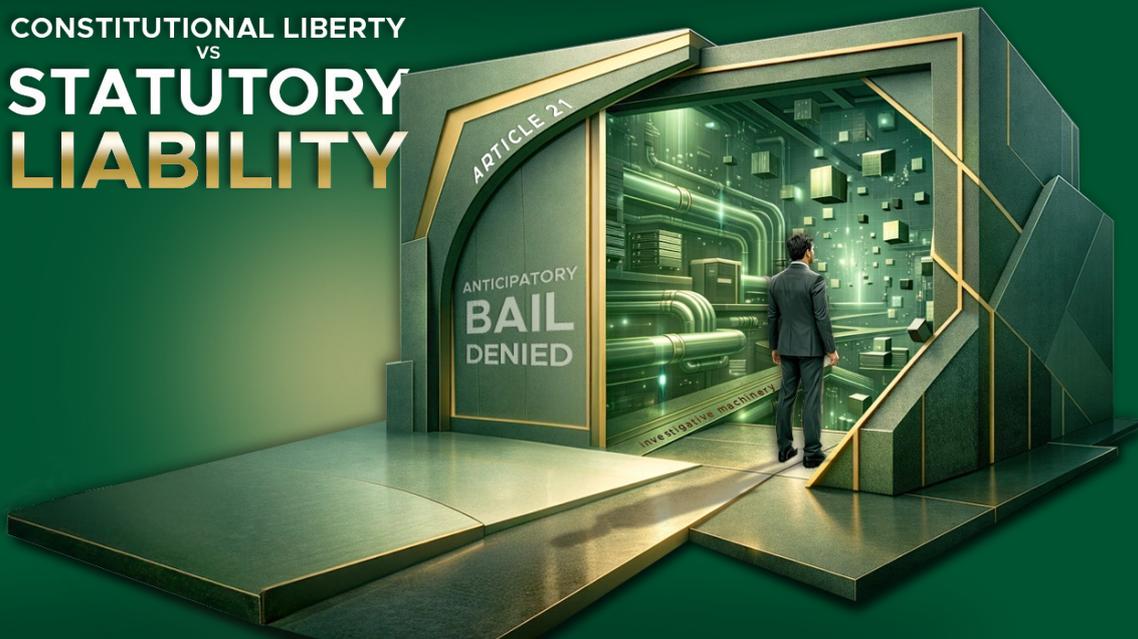
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PIVOTAL ISSUES

Delhi High Court Clarifies Application of Section 45 Twin Conditions to Anticipatory Bail in Bhaskar Yadav

CONSTITUTIONAL LIBERTY
VS
STATUTORY
LIABILITY



In the evolving jurisprudence surrounding economic offences, courts are often required to balance individual liberty against the imperatives of effective financial crime investigation. This tension was recently brought into focus by the Delhi High Court in *Bhaskar Yadav & Anr. v. Directorate of Enforcement*, a decision that examined the contours of anticipatory bail under the Prevention of Money Laundering Act, 2002. Arising from allegations of large-scale cyber fraud and laundering of proceeds of crime through layered banking channels and digital platforms, the case foregrounds a critical legal principle repeatedly emphasised by courts: the stage of bail is not a stage for rendering a verdict on guilt or innocence.

This approach stands on a distinct factual footing from the Supreme Court's decision in *Arvind Dham v. Directorate of Enforcement*, where the Court weighed the rigours of Section 45 against prolonged incarceration and delay in trial. In *Bhaskar Yadav*, the High Court was not confronted with issues of extended custody or trial stagnation, but with an ongoing investigation involving alleged destruction of evidence and the asserted necessity of custodial interrogation. The comparison underscores that the interplay between Article 21 and the twin conditions under Section 45 is inherently fact-sensitive and must be applied on a case-by-case basis, rather than as a uniform dilution of statutory rigour. To understand this conflict, one must turn to the statutory bail framework under the PMLA, which departs from ordinary criminal law. While Article 21 and the BNSS emphasise personal liberty, Section 45 of the PMLA imposes the "twin conditions", requiring the court to assess, on broad...

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SIGNIFICANT CASE LAWS

Gauhati High Court Rules Initial Authorization Defects in Section 138 Complaints Are Curable, Not Fatal

In the case of M/S Amprolisa Construction And Anr. vs. Gupta Hardware Private Limited, the Gauhati High Court ruled that minor defects in the corporate authorization required to file a complaint under Section 138 of the Negotiable Instruments Act are curable and do not warrant quashing the proceedings. The petitioner had argued that the complaint was invalid because the marketing manager who filed it lacked proper Board authorization at the time of filing, violating corporate governance standards. However, the Court observed that since the complaint was filed in the company's name, any deficiency in the specific representative's initial authority is a "correctable flaw" that can be rectified during the trial through additional evidence or subsequent Board approval. The Court emphasized that rejecting a case at the threshold for technical authorization defects would be excessively severe and counterproductive to the pursuit of justice. Relying on Supreme Court precedents, Justice Sanjeev Kumar Sharma held that even if the initial authorization was individual rather than collective, it could be remedied by a later Board Resolution or a fresh Power of Attorney. Furthermore, the Court upheld the trial court's decision to admit such corrective evidence under Section 311 of the CrPC, clarifying that such measures serve to establish the truth of authorization without causing unfair prejudice to the accused.



SIGNIFICANT CASE LAWS

Kerala HC: Managing Director Held Liable for Company's Cheque Bounce Due to Signatory Status and Day-to-Day Control

In the case of V.J. Joseph v. The India Cements Limited, the Kerala High Court reaffirmed that a Managing Director can be held vicariously liable for a cheque dishonor offense committed by a company under Section 141 of the Negotiable Instruments Act. The petitioner, who was the Managing Director of the accused company, challenged his conviction by arguing that he should not be personally held liable for the company's debt. However, the Court dismissed the revision petition, noting that the petitioner had not only signed the dishonored cheques himself but had also admitted during the trial that he was in charge of and responsible for the company's day-to-day business operations at the time of the transaction.

The Court's rationale emphasized that while mere directorship is not enough to trigger criminal liability, specific averments showing that an officer is at the "helm of affairs" are sufficient to satisfy the legal requirements for vicarious liability. By proving that the Managing Director was actively involved in the conduct of the business and was the actual signatory of the instruments, the complainant successfully established the link required for a criminal conviction. Consequently, the High Court upheld the sentence of imprisonment until the rising of the court and the direction to pay ₹6 lakh in compensation, reinforcing the principle that corporate leadership carries personal accountability for financial defaults.



[VIEW JUDGEMENT](#)

SIGNIFICANT CASE LAWS

Integrity in Public Procurement: Delhi High Court Upholds DJB Clause Disqualifying Bidders Facing Corruption Charges

In the case of M/S Ram Kumar v. Delhi Jal Board, the Delhi High Court upheld a tender condition that disqualifies bidders if they, their directors, or their partners are facing FIRs or charge sheets filed by agencies like the CBI or ACB in corruption cases. The petitioner challenged the clause, arguing it was arbitrary and violated the principle of "innocent until proven guilty" by penalizing firms before a formal conviction. However, the Court dismissed the plea, ruling that public authorities have the right to set eligibility criteria that safeguard the integrity of public works and ensure that contracts are not awarded to entities with a tainted background.

The Court's rationale centered on the principle that the "right to bid" for a government contract is not an absolute right but is subject to reasonable restrictions set by the tendering authority. Justice Sanjeev Narula observed that a clause aimed at ensuring high standards of probity and transparency in public projects cannot be deemed unconstitutional. The Court emphasized that such measures are necessary to prevent the misuse of public funds and that the Delhi Jal Board, as a state entity, is justified in prioritizing "institutional integrity" over the commercial interests of firms currently under criminal investigation for financial regularities.



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SIGNIFICANT CASE LAWS

Illegal Gratification Beyond Protection: Supreme Court Rules Section 17A of PC Act Inapplicable to Bribery Demands

The Supreme Court in *Anil Daima Etc. Versus State Of Rajasthan & Ors.* has clarified that the protection offered under Section 17A of the Prevention of Corruption (PC) Act which requires prior sanction from the government before investigating a public servant does not apply to cases involving the demand or acceptance of illegal gratification. In a significant ruling, the Court observed that seeking a bribe cannot, by any stretch of the imagination, be considered a part of the "official duties" or the decision-making process of a public official. The Bench emphasized that the legislative intent of Section 17A was to protect honest officers from harassment for bona fide policy decisions, not to provide a shield for corrupt acts that are inherently outside the scope of legitimate administrative functions.

The Court's rationale distinguishes between acts done in the discharge of official duty and acts that constitute a clear criminal offense like bribery. The Bench noted that for Section 17A to trigger, the act in question must have a direct nexus with the official recommendation or decision-making process of the officer. Since the demand for a bribe is a personal criminal act and not a "recommendation made or decision taken" by a public servant in the course of their duties, no prior approval from the government is necessary to initiate an inquiry or investigation. This judgment reinforces the principle that corruption cannot be institutionalized under the guise of procedural safeguards, ensuring that investigations into bribery remain swift and effective.



[VIEW JUDGEMENT](#)



REGULATORY UPDATE:

RBI Introduces New Conditions for Resident Participation under the Guarantees Regulations, 2026



भारतीय रिज़र्व बैंक RESERVE BANK OF INDIA

The Reserve Bank of India (“RBI”) has notified the Foreign Exchange Management (Guarantees) Regulations, 2026 (“Guarantees Regulations 2026”), replacing the Foreign Exchange Management (Guarantees) Regulations, 2000 (“Guarantees Regulations 2000”). Issued under the Foreign Exchange Management Act, 1999 (“FEMA”), the new regulations aim to comprehensively govern cross-border guarantees involving persons resident in India and persons resident outside India. The framework signifies a shift from an approval-centric, fragmented regime to a principle-based structure focused on regulatory certainty, transparency, and consistency.

The Guarantees Regulations 2026 establish an overarching framework covering prohibitions, exemptions, permissions, reporting obligations, and consequences of non-compliance. Unlike the earlier regime, which primarily addressed resident guarantors, the new regulations apply whenever a resident becomes a party to a guarantee involving a non-resident, whether as a principal debtor, surety, or creditor. The regulations expressly define these roles and link permissibility to compliance with FEMA and allied regulations governing borrowing, lending, and overseas investment. The Guarantees Regulations 2026 impose a general prohibition on persons resident in India from being parties to guarantees involving non-residents, except in accordance with the regulations. Specifically, a resident may not act as a principal...

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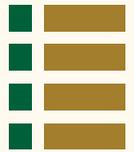
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