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We are thrilled to announce our association with Singapore International Arbitration Centre as one of its Plenary Sponsors. The Firm's Founder and Managing Partner, Mr. Mohit Saraf participated in a panel discussion titled "Preserving the Values of Arbitration- The Next 10 Years" at the SIAC Symposium 2024, held on August 26, 2024.

Regulatory Updates

SEBI amends AIF Regulations to provide for migration of VCFs registered under the erstwhile VCF Regulations to AIF Regulations

The Securities and Exchange Board of India's (**SEBI**) amendments to the SEBI (Alternative Investment Funds) Regulations, 2012 (**AIF Regulations**) effective July 18, 2024, provide venture capital funds (**VCFs**) registered under the erstwhile SEBI (Venture Capital Funds) Regulations, 1996 (**VCF Regulations**) the option to migrate to AIF Regulations by registering as Migrated Venture Capital Funds (**MVCFs**) and manage their unliquidated investments upon expiry of tenure of schemes. For more [click here](#).

SEBI Unveils Fixed Price Option for Voluntary Delisting

SEBI's new regulations introduce a fixed price option for voluntary delisting, requiring a price at least 15% above the floor price. This aims to streamline the process and prevent manipulation. For more [click here](#).

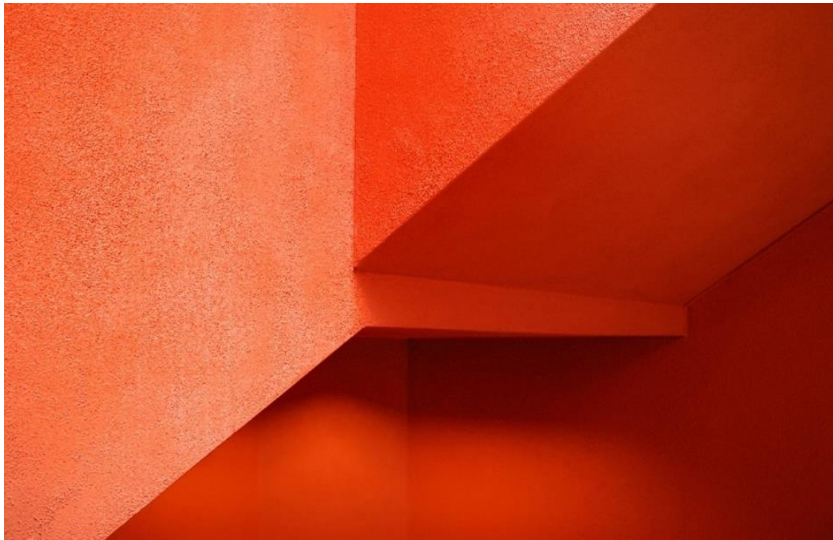
SEBI introduces ease of doing business measures under regulations governing InvITs and REITs

SEBI's amendments to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real Estate Investment Trusts) Regulations, 2014 (**REIT Regulations**), effective September 27, 2024, aim to ease business operations. Key changes include reducing the trading lot from INR 1 crore to INR 25 lakhs, allowing remote e-voting and electronic meeting attendance for unitholders, and revising distribution timelines. For more [click here](#).

SEBI amends AIF Regulations

SEBI's amendments to the SEBI (Alternative Investment Funds) Regulations 2012 have allowed for: (a) creation of encumbrances by Category-I and Category-II Alternate Investment Funds (**AIFs**) in connection with their equity investments; (b) borrowing by Category-I and Category-II AIFs to meet temporary funding requirements subject to conditions; and (c) extension of tenure for Large Value Funds. For more [click here](#).





SEBI grants exemption to university funds and university related endowments (Category-I FPIs) from additional disclosure requirements

SEBI has amended the master circular for foreign portfolio investors (**FPIs**), designated depository participants (**DDPs**) and eligible foreign investors to grant exemption to university funds and university related endowments registered or eligible to be registered as Category-I FPIs from additional disclosures such as granular details of entities, including individuals, holding ownership, economic interest, or control in the FPI. For more [click here](#).

Ministry of Finance amends Securities Contracts (Regulation) Rules 1957 to enable direct listing of securities of public companies on international exchanges in GIFT City IFSC

The Department of Economic Affairs, Ministry of Finance (**MoF**) has notified amendments to the Securities Contracts (Regulation) Rules, 1957 (**SCR Rules**) to facilitate direct listing of Indian public companies on international stock exchanges based out of Gujarat International Fin-Tech City International Financial Services Centre (**GIFT City IFSC**) by reducing the minimum float and minimum public shareholding requirements from 25% to 10% of the share capital of such companies. For more [click here](#).

SEBI modifies framework for valuation of AIF investment portfolios

SEBI vide its circular dated September 19, 2024, has amended the valuation framework for AIF investments inter-alia requiring unlisted, non-traded, or thinly traded securities to be valued in accordance with the valuation guidelines endorsed by the relevant AIF industry association after considering Alternative Investment Policy Advisory Committee recommendations. For more [click here](#).

Key approvals in SEBI's board meeting dated September 30, 2024

On September 30, 2024, SEBI's board meeting approved several measures, including launching a new mutual fund asset class with a minimum ticket size of INR 10 lakhs for high-risk investors, imposing additional disclosure requirements on Overseas Derivative Instruments (**ODIs**) and segregated portfolios of FPIs, and clarifying that investor rights in AIFs will be pro-rata for investments and returns, and pari-passu for other aspects. For more [click here](#).

IFSCA releases consultation paper proposing amendments to the IFSCA (Fund Management) Regulations, 2022

The IFSCA issued a consultation paper supplemented by an addendum dated August 17, 2024, recommending amendments to the IFSCA (Fund Management) Regulations, 2022 (**FME Regulations**). The proposals seek to (a) enhance ease of doing business for Fund Management Entities (**FMEs**); (b) introduce additional investor safeguards; (c) provide technical clarifications in respect of the current FME Regulations; and (d) introduce a new chapter on third-party fund management services. For more [click here](#).



RBI releases draft framework on Due Diligence of Aadhaar enabled Payment System Touchpoint Operators

The RBI has released draft framework on the due diligence process for onboarding Touchpoint Operators for Aadhaar enabled Payment System. For more [click here](#).

MoF notifies the Foreign Exchange (Compounding Proceedings) Rules, 2024

The Department of Economic Affairs under the MoF has notified Foreign Exchange (Compounding Proceedings) Rules, 2024, for compounding of contraventions under FEMA 1999. For more [click here](#).

IBBI issues 'Guidelines for Committee of Creditors, 2024'

The IBBI has introduced self-regulating guidelines for the CoC to enhance decision-making, reduce procedural delays, and improve transparency and coordination. For more [click here](#).

SEBI amends InvITs Regulations to permit issuance, transfer and re-classification of subordinate units by InvITs

SEBI's amendments to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 (**InvIT Regulations**) allow for the issuance of 'subordinate units' through private placement by Infrastructure Investment Trusts (**InvITs**) following acquisition of infrastructure projects including conditions for the transferability and re-classification of subordinate units. For more [click here](#).

SEBI proposes relaxations in additional disclosure requirements applicable to large FPIs to identify such FPIs as LBC or non-LBC entities

On July 30, 2024, SEBI released a consultation paper recommending a risk-based criteria for disclosure requirements applicable to FPIs for the purpose of classification and identification of FPIs as land bordering country (**LBC**) and non-LBC entities instead of requiring granular disclosures in respect of all investors / stakeholders on a look through basis under the extant disclosure framework. For more [click here](#).

RBI publishes draft notifications on Regulation of Foreign Trade

The RBI has published draft notifications in relation to regulation of foreign trade (export and import transactions) inviting public comments. For more [click here](#).

RBI announces Public Repository of Digital Lending Applications

Taking cognizance of media reports highlighting continued presence of unscrupulous players in digital lending who falsely claim their association with RBI regulated entities (**REs**), the Reserve Bank of India (**RBI**), in its statement on developmental and regulatory policies dated August 8, 2024, announced creation of public repository of digital lending applications. The repository is aimed to aid the customers in verifying the claim of Digital Lending Apps (**DLAs**) association with REs. The repository will be based on data submitted by the REs (without any intervention by RBI) directly to the repository and will get updated as and when the REs report the details, i.e., addition of new DLAs or deletion of any existing DLA. Detailed instructions in this regard shall be issued shortly.





Amendment to the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

Ministry of Corporate Affairs has amended the rule 25A of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, governing cross-border mergers For more [click here](#).

IFSCA simplifies norms for launch of schemes by Fund Management Entities

The International Financial Services Centres Authority (**IFSCA**) simplifies norms for launching fund and schemes by 'Fund Management Entities (**FMEs**)', prescribing minimum disclosure requirements in private placement memorandums (**PPMs**), extension of green channel route and allowing online filings. For more [click here](#).

RBI releases circular on Remittances made under LRS to IFSCs in India

The RBI has revised the permissible purposes for remittances to IFSCs under the Liberalised Remittance Scheme (**LRS**), BY allowing authorized persons to facilitate remittances for all LRS purposes, including availing financial services within IFSCs and conducting transactions in other foreign jurisdictions through Foreign Currency Accounts held in IFSCs. For more [click here](#).

MoF notifies amendments to the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019

MoF notified the Foreign Exchange Management (Non-Debt Instruments) (Fourth Amendment) Rules, 2024 (**NDI Amendment Notification**) which aims to simplify cross-border share swaps, allowing Indian companies to issue or transfer equity instruments in exchange for foreign company equity instruments. For more [click here](#)

MoF notifies the Foreign Exchange (Compounding Proceedings) Rules, 2024

The Department of Economic Affairs under the MoF has notified Foreign Exchange (Compounding Proceedings) Rules, 2024, for compounding of contraventions under FEMA 1999. For more [click here](#).

RBI publishes Draft Framework on Alternative Authentication Mechanisms for Digital Payment Transactions

The RBI has published the draft framework on alternative authentication mechanisms for digital payment transactions inviting public comments. For more [click here](#).

IBBI issues circular on Generation of VRIN for valuations under the Insolvency and Bankruptcy Code

The IBBI now requires a Valuation Report Identification Number (**VRIN**) for each valuation by Registered Valuers under the IBC. This ensures authenticity and transparency. VRINs must be generated online and included on the front page of reports. Stakeholders can verify reports using the VRIN on the IBBI website. This measure aims to prevent fraudulent valuations and build trust among stakeholders. For more [click here](#).



IBBI's New Amendments to boost Real Estate Insolvency

With the intention to assist in the efficient representation of numerous creditors, including homebuyers, who frequently face delays and difficulties throughout the insolvency proceedings, the Insolvency and Bankruptcy Board of India (**IBBI**) recently introduced significant amendment to the Insolvency Resolution Process for Corporate Persons Regulations, 2016 (**IRPCP**) effective from September 24, 2024.

The amendment seeks to introduce an interim representative for large creditor groups, such as homebuyers, and such interim representative:

- will act on behalf of the creditors during the period when the application for the appointment of an authorized representative is under consideration before the adjudicating authority; and
- will hold the same rights and duties as an authorized representative, especially during meeting of committee of creditors (**CoC**).

By expediting the resolution process and ensuring effective representation for all creditors, the amendment aim to restore confidence in the insolvency framework and promote a more stable and transparent real estate market.

IBBI paves the way for MSME Transparency with new CIRP Registration Framework

The IBBI proposes requiring the disclosure of Micro, Small and Medium Enterprises (**MSME**) status in the Information Memorandum (**IM**) during the Corporate Insolvency Resolution Process (**CIRP**). This aims to enhance transparency, reduce delays, and attract more resolution applicants, ultimately benefiting MSMEs and stakeholders. For more [click here](#).

IBBI amends Inspection and Investigation Regulations 2017

The IBBI has amended the Inspection and Investigation Regulations, extending the timeframe for the Disciplinary Committee to dispose of show-cause notices from 35 days to 60 days after receiving a reply. This change aims to improve the efficiency and fairness of the inspection and investigation processes by allowing more time for thorough assessments. For more [click here](#).

Information utilities to verify details of the debtor before issuance of a record of default

The IBBI has amended the IU Regulations to enhance the accuracy and reliability of insolvency information. Key changes include a 7-day timeframe for delivering default information to debtors and verifying key debtor details before issuing a default record. These amendments aim to improve transparency and efficiency in the insolvency process. For more [click here](#).



Judicial Pronouncements

Unilateral set off / adjustment of the income tax refund against income tax dues accruing pre-CIRP during liquidation process is impermissible under the IBC: NCLAT clarifies

The National Company Law Appellate Tribunal (**NCLAT**) ruled that during liquidation under the IBC, the income tax department cannot set-off refunds against pre-insolvency dues under section 245 of the Income Tax Act, 1961. Set-offs are only allowed if the creditor holds a security interest, ensuring proportional distribution among creditors. The case was remanded to the NCLT to re-examine the set-off amount. For more [click here](#).

Banks must mandatorily adhere to the procedure laid down in 'Instructions for Framework for Revival and Rehabilitation of MSMEs' before classifying MSME account as NPA

The Supreme Court ruled in favor of MSMEs, challenging banks' classification of their accounts as non-performing assets (**NPAs**) without following the restructuring process outlined in the MSME Notification. The Court held that the MSME Act and RBI guidelines have statutory force and must be followed, overriding the SARFAESI Act in this context. This judgment supports MSMEs by ensuring mandatory implementation of the MSME restructuring framework. For more [click here](#).

Supreme Court clarifies whether filing of Record of Default of Information Utility is mandatory or not?

The Supreme Court clarified that filing a record of default with an IU is not mandatory for a Section 7 petition under the IBC. The NCLAT had affirmed that other evidence can suffice to prove the debt is due and payable. This judgment emphasizes that the absence of an IU record does not invalidate a Section 7 application, ensuring flexibility for financial creditors. For more [click here](#).

Supreme Court lays down emphasis on scope of judicial interference and meaning of "contravention of fundamental Indian policy"

In the matter of OPG Power Generation Pvt. Ltd. v. Enxio Power Cooling Solutions India Pvt. Ltd. & Anr., the Supreme Court enumerated on the scope of judicial interference under Article 34 the Arbitration and Conciliation Act, 1996 (**A&C Act**), and stated that a mere violation of law is not enough and there has to exist a conflict with the fundamental aspects of policy of Indian Law. For more [click here](#).



Supreme Court clarifies position on extension of mandate by Tribunal

The Supreme Court, in this matter of Rohan Builders (India) Private Limited v. Berger Paints India Ltd., settled a largely contested question of law which saw an array of contrasting opinions taken by various High Courts over time. The judgment came in as a much-needed clarification on whether an application for extension of the time given to make an arbitral award under Section 29A of the A&C Act can be made after the after the initial 12-month period and the consensual 6-month extension period has already expired. The court gave a broad interpretation and held that an extension application can be filed before or after the expiry of the tribunal's mandate. For more [click here](#).



Delhi High Court holds that a non-signatory to an arbitration agreement can be included in arbitration proceedings beyond the Group of Companies Doctrine

A single-judge bench of the Delhi High Court recently held in the case of *RBCL Piletech Infra v. Bholasingh Jaiprakash Construction Ltd & Ors.*, that a non-signatory to an arbitration agreement can be included in the arbitration proceedings even beyond the Group of Companies Doctrine, if the parties are part of a contractual relationship which makes the non-signatory responsible to some extent for obligations held towards the claimant. For more [click here](#).

NCLAT clarifies that date of filing, and not the date of registration, is what triggers the interim moratorium under Section 95 of the IBC

The NCLAT in *Sangita Arora v IFCI* addressed a key question regarding the effective date of filing an application under Section 95 under Part III (Insolvency Resolution and Bankruptcy for Individuals and Partnership Firms) of the IBC. The issue centered on whether the interim moratorium should be triggered by the filing date or the registration date, wherein, the NCLAT ruled that the date of filing is the relevant date for this purpose, providing much-needed clarity on a matter that involved conflicting opinions. For more [click here](#).

Related Party financial creditors maintain priority over operational creditors in liquidation under Section 53 of the IBC

The NCLAT in *Times Innovative Media Ltd. v Pawan Kumar Aggarwal & Anr.* addressed whether a related party financial creditor holds priority over an operational creditor in the distribution of liquidation assets under Section 53 of IBC, 2016. The Tribunal ruled that related party financial creditors retain their status as unsecured financial creditors and thus, hold priority over operational creditors in liquidation, settling an important point of law regarding the treatment of related parties in insolvency proceedings. For more [click here](#).

Delhi High Court reinforced the Indian Mauritius Tax treaty benefit availability in case of grandfathered transactions based on valid TRC

The Delhi High Court in the case of *Tiger Global* overturned the observations of the Authority of Advance Ruling (**AAR**) of tax evasion and reaffirmed that the Tax Residency Certificate (**TRC**) must be considered sacrosanct for claiming Tax treaty benefits and corporate veil may be pierced only in certain circumstances. For more [click here](#).

Tie-breaker Reduces Compliance Costs for Intermediaries by Making Fact Check Unit Unconstitutional

The Bombay High Court, in the case of *Kunal Kamra v Union of India* struck down the amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules), made in 2023 and held the Fact Check Unit to be unconstitutional in nature, in a tie-breaking judgment. For more [click here](#).

Apex Court's POCSO Ruling Reducing Clarity and Increasing Compliance Costs for Intermediaries

In a landmark judgment, the Supreme Court in *Just Rights for Children Alliance v S Harish* rules that mere viewing and storing of child pornographic content will be deemed to be an offence under Section 15 of the Protection of Children from Sexual Offences Act, 2012 (**POCSO Act**) and Section 67 of the Information Technology Act, 2000 (**IT Act**), in case such content is not reported. For more [click here](#).



US LLC eligible for India US Double Taxation Avoidance Agreement benefits

In a recent ruling, the Delhi bench of the Income-tax Appellate Tribunal (**ITAT**) concluded that a US LLC, opting to be a disregarded entity in the US, is eligible to avail the benefits under the India-US Double Taxation Avoidance Agreement (**DTAA or Tax treaty**) since it qualifies as a 'person' and is 'liable to tax' in the US under Article 4 of the India-US DTAA. For more [click here](#).

S&P Thought

Digital Personal Data Protection Act to bring marketing overhaul: Pesky calls to personalisation

Digital Personal Data Protection Act (**DPDPA**) promotes the principle of data minimization, which requires companies to collect only the data that is necessary for a specific purpose. For marketing companies, this will mean a significant reduction in the volume of data collected. Data should only be collected for specific, explicit, and legitimate purposes. For more [click here](#)

Bridging The Gap: Enhancing the Reach of Interim Foreign Arbitration Awards

The enforcement of interim awards in India involves two scenarios: those granted by Indian courts under Section 9 of the A&C Act, and those by foreign-seated arbitral tribunals. While the former has a clear enforcement mechanism, the latter faces challenges due to the lack of a statutory framework. Despite amendments like the 2015 Amendment improving domestic arbitration, enforcing foreign interim awards remains difficult, leading to delays and speculative litigation. Adopting an internationalist approach and legislative amendments to enforce foreign interim awards are essential for a more efficient arbitration framework in India. For more [click here](#).

Modification of Arbitral Awards

The Supreme Court of India has debated whether courts can modify arbitral awards under Section 34 of the A&C Act. While some rulings, like *McDermott International Inc. v. Burn Standard Co. Ltd.*, say no, others disagree. Recently, in *Gayatri Balasamy v. M/s. ISG Novasoft Technologies Limited*, the Supreme Court referred this issue to a larger bench. Internationally, countries like the UK and US allow modifications, highlighting the need for legislative clarity in India. For more [click here](#).

ESG Reporting in India: Balancing Profit, People, and Planet

India has advanced from CSR to comprehensive Environmental, Social, and Governance (**ESG**) reporting. SEBI mandates the top 1,000 listed companies to report on ESG metrics through the Business Responsibility and Sustainability Report Core (**BRSR Core**). The framework includes legally binding regulations and voluntary guidelines, such as the National Guidelines for Responsible Business Conduct (**NGRBC**). SEBI also introduced a BRSR Lite framework for smaller companies and guidelines for ESG rating providers. For more [click here](#).

Quarterly Milestones

Key Deal Announcements

- We secured bail for the CEO of **Rau's IAS Study Circle** in an unfortunate event leading to drowning of three students. This matter was led by Mohit Saraf, the Founder and Managing Partner, and Sanjeev Sharma, Senior Partner
- We advised in respect of providing a term loan facility amounting to INR 1850 crores to **KESORAM INDUSTRIES LTD.** by **Tata Capital, Hero FinCorp** and **Tata Capital Housing Finance Limited**.



- We advised **AMPIN Energy Transition** in forming a joint venture with **Sumitomo Corporation**, named **AMPIN C&I Power Private Limited**, headquartered in New Delhi. The JV will see an investment of USD 69.6 million (JPY100 billion) to build a 1 GW renewable energy portfolio with corporate Power Purchase Agreements (**PPAs**).
- We advised **Acko** in its acquisition **of Wellworks Technologies'** business under the brand name '**OneCare**'.
- We successfully represented **Jai Corp Ltd.** 's Mr. Virendra Jain and his son, Mr. Ankit Jain, in securing the approval of the sale and acquisition of **Kamachi Industries Limited** for INR 487 Crores.
- We acted as the lender's counsel for **ASK Property Fund** in their investment of approximately INR 190 Crore in a structured finance deal for Kalpataru Group's Borivali Project in Mumbai.
- We successfully advised **TJSB Sahakari Co-operative Bank's Management and Board** on the drafting of a policy for sale of security receipts. The policy sets out the procedures and guidelines for the sale of security receipts issued by asset reconstruction companies to qualified buyers.

Key Awards & Recognitions

- We have been ranked for our excellence across 13 practice areas - Banking and finance, Capital markets, Competition/antitrust, Corporate M&A, Intellectual property, Labour and employment, Pharmaceuticals and life sciences, Private Equity, Real estate, Restructuring and Insolvency, Tax and Technology, Media and Telecommunication by **Asialaw rankings 2024**.
- **Asialaw leading lawyers rankings 2024**, recognised 13 lawyers of Saraf and Partners including Firm's Founder & Managing Partner, Mohit Saraf along with Senior Partners, Bikash Jhawar, Manmeet Singh, Vaibhav Kakkar, Vikrant Kumar, Sanjeev Sharma, and Saroj Kumar Jha and Partners, Akshay S Nanda, Avirup Nag, Rohit Raghavan, Sahil Arora, Satadru Goswami and Snigdhanee Satpathy.
- Firm's Corporate practice Partner, Sahil Arora, has been featured amongst the **India Super 50 Lawyers 2024**, published in the July-August issue of **Asian Legal Business**.
- Firm's Senior Partner, Sanjeev Sharma, has been honored as one of the "**Asia Super 50 Disputes Lawyers**" by **Asian Legal Business** for the year 2024.

Other News

- The firm announced the elevation of Satyadarshi Kunal, Debarpan Ghosh, and Navomi Koshy to Partners, and Aditya Vikram Singh, Anupm Prakash, and Sanya Sud to Partner Designate, increasing the total number of Partners to 44 and expanding the firm's strength to over 250.
- We expanded the Mumbai team with the joining of Adil Ladha, Sudeshna Guha Roy (along with her team), and Mathew Thomas as Partners.



Saraf and Partners is India's fastest growing, independent, professionally owned and managed firm with a strength of 38 partners and 250 lawyers. We are a contemporary full - service law firm with over three decades of experience. We provide bespoke, out of the box, innovative and integrated legal solutions using global best practices. Drawing on sector-experts with years of experience and expertise, Saraf and Partners is privileged to work with some of India's leading corporations as also advising global behemoths looking at India.

Communication is key at Saraf and Partners. We take time to listen to our clients' concerns and goals, and we are committed to responding promptly to our clients' inquiries and keeping them informed every step of the way. Backed by a team with limitless capabilities, we take pride in providing timely and cutting-edge legal advice while upholding the highest standards of ethical behaviour.

Our unwavering commitment to our clients and their commercial interests is at the heart of everything we do. Our extensive experience, coupled with learned pragmatism in our approach, ensures that our clients receive the best legal advisory for nuanced legal concerns. It is this dedication to professional excellence that has led our leadership team to be recognized amongst the top legal advisors in India.

Our offices:

Delhi NCR

FC - 10 & 11, Sector 16 A, Filmcity,
Noida - 201301

+91 (120) 463 0600

Delhi@sarafpartners.com

New Delhi

D - 145, Defence Colony, Opposite South
Delhi Public School, New Delhi - 110024

+91 (11) 4405 0600

Delhi@sarafpartners.com

Mumbai

One International Centre,
Tower 2, Unit No 2402, 24th floor,
Senapati Bapat Marg, Lower Parel -
400013

+ 91 (22) 4405 0600

Mumbai@sarafpartners.com

Bengaluru

201, Embassy Square, 148 Infantry Road, Opp. Police
Commissioner's Residence

Vasanth Nagar, Bengaluru - 560001

+91 (80) 4405 0600

Bengaluru@sarafpartners.com

Hyderabad

8-2-619, Third Floor, SAHA Complex, Road No. 11, Banjara
Hills, Hyderabad - 500034

+91 (40) 3551 2050

Hyderabad@sarafpartners.com

We would love to hear your views @ legit@sarafandpartners.com.

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