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Fast-Track Mergers and Demergers under the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules 2025: The Much-Needed Expansion of the Scope of Fast-Track Mergers and Demergers

Background

Corporate restructuring in India is governed by Sections 230 to 232 of the Companies Act, 2013 (hereinafter referred to as the "Companies Act"). These provisions establish the legal framework for compromises, divisions, arrangements, mergers and amalgamations. The conventional route under the aforementioned sections requires the company, or any of its creditors or members to make an application to the Hon'ble National Company Law Tribunal ("NCLT"), which entails multiple hearings, detailed disclosures, and often results in prolonged timelines. While the NCLT's oversight ensures judicial scrutiny, the process often proves cumbersome and time-consuming, particularly for smaller entities or group companies seeking internal reorganisations.

These challenges were dealt with by enforcing Section 233¹ of the Companies Act, read with Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (the "CAA Rules") which created a fast-track mechanism for mergers and amalgamations. The objective was to provide a simplified, cost-effective, and time-efficient alternative to the aforementioned conventional route under Sections 230 to 232, enabling certain classes of companies, such as small companies², start-up company³ and wholly owned subsidiaries⁴ to pursue restructuring directly through the jurisdictional offices of the Regional Director⁵ who enjoys jurisdiction over the transferee company, and thereby ensure minimal judicial intervention.

The Ministry of Corporate Affairs ("MCA") periodically refines the framework of corporate restructuring, to keep pace with evolving business needs. Notably, the amendments to the CAA Rules dated February 01, 2021 and September 09, 2024, further

expanded the scope of eligible companies and streamlined procedures in line with the Government's "Ease of Doing Business" agenda. For example, the amendment to the CAA Rules introduced on February 01, 2021 allowed for expansion of the fast-track route to include mergers or demergers between two or more start-up companies, and between a start-up company and one or more small companies. Similarly, the amendment to the CAA Rules introduced on September 09, 2024 provided procedures for a foreign holding company (incorporated outside India) to merge with its Indian wholly owned subsidiary, under the fast-track procedure.

Introduction

On September 04, 2025, the MCA notified the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2025 (the "CAA Amendment Rules"), amending Rule 25 of the CAA Rules. This change gives effect to announcements made in the speech of the Union Budget 2025-26, where the Finance Minister highlighted the Government's commitment to simplify corporate reorganisation processes as part of its broader ease of doing business initiative.⁶

Accordingly, the CAA Amendment Rules expand the categories of companies eligible to use the fast-track merger and amalgamation process under Section 233 of the Companies Act and updates procedural aspects.

The following section sets out the key amendments in detail, highlighting the position prior to 2025 and the corresponding changes introduced by the CAA Amendment Rules.

Key Amendments

A. Expansion of Eligible Classes of Companies for fast-track mergers and amalgamations

Prior to the CAA Amendment Rules mergers and amalgamations through the fast-track route under Section 233 of the Companies Act was limited between: (a) two or more small companies⁷; (b) a holding company and its wholly owned subsidiary⁸; (c) two or more start-up companies⁹ and (d) one or more start-up company with one or more small company¹⁰.

The CAA Amendment Rules broaden the eligibility for companies seeking to undertake mergers and amalgamations through the fast-track route. Specifically, Rule 25(1A) of the

improvement of products or processes or services, or if it is a scalable business model, with a high potential of employment generation or wealth creation. This definition is in accordance with notification number G.S.R. 127(E), dated February 19, 2019 issued by the Department for Promotion of Industry and Internal Trade.

⁴A "wholly owned subsidiary" is a company in which 100% of the share capital is held by another company, either directly or through its nominees, thereby making it a subsidiary entirely owned by the holding company.

⁵Regional Directors are appointed by the MCA to oversee the administration and compliance of companies within their respective regions. They supervise the Registrars of Companies within their region and exercise delegated powers under the Companies Act, 2013.

⁶Para 101 of the Union Budget speech states: "Requirements and procedures for speedy approval of company mergers will be rationalized. The scope for fast-track mergers will also be widened and the process made simpler."

⁷Section 233(1) of the Companies Act, 2013.

⁸*Id.*

⁹Rule 25(1-A)(i) of the CAA Rules.

¹⁰Rule 25 (1-A)(ii) of the CAA Rules.

¹Section 233 of the Companies Act, 2013 was enforced from December 15, 2016 vide MCA notification No. S.O. 3677(E) dated December 07, 2016. Section 233 of the Companies Act, 2013 provides a simplified 'fast-track' procedure for mergers and amalgamations of certain classes of companies, allowing approval through the Regional Director rather than the NCLT.

²A "small company" means a company, other than a public company,— (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees; and (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees. However, this classification does not apply to: (A) holding or subsidiary companies; (B) companies registered under Section 8; or (C) companies or bodies corporate governed by any special Act.

³A "start-up company" means a private company under the Companies Act, 2013 or Companies Act, 1956: (i) incorporated for a period of 10 years, (ii) whose turnover for any of the financial years since incorporation / registration has not exceeded one hundred crore rupees and (iii) which is working towards innovation, development or

CAA Rules has been amended to recognize mergers and amalgamations between the following additional classes of companies:

a. Among Unlisted Companies:

Previously unlisted companies could only opt for merger or amalgamation under section 233 if they were classified as 'small company' or a 'start-up company'.

The CAA Amendment Rules have introduced Rule 25(1-A)(iii), which allows one or more unlisted companies to apply for a scheme of merger or amalgamation under Section 233 with one or more unlisted companies. This is subject to the companies, which are not Section 8 companies, satisfying the following conditions:

- (i) The aggregate outstanding loans, debentures or deposits of the companies do not exceed two hundred crore rupees and;
- (ii) They are not defaulting in repaying such outstanding loans, debentures or deposits.¹¹

The meeting of the above conditions should be further corroborated by the issuance of a certificate from an auditor of the company to the effect that it meets the requirements,¹² along with a copy of the approved scheme.

b. Between Holding Company and its Subsidiary:

The CAA Amendment Rules has introduced Rule 25(1-A)(iv), which now allows mergers and amalgamations under Section 233 of the Companies Act, between a holding company (whether listed or unlisted) and its subsidiary (whether listed or unlisted), provided that the transferor company is not listed.¹³

This marks a departure from the earlier requirement, which confined the fast-track route under Section 233, only to mergers and amalgamations involving a wholly owned subsidiary.

c. Between Subsidiaries of the Same Holding Company:

The CAA Amendment Rules has introduced Rule 25(1-A)(v), which now allows mergers and amalgamations under Section 233 of the Companies Act, between one or more subsidiaries of the same holding company, provided that the transferor company or companies are unlisted.¹⁴

Rule 25(1-A)(v) reads thus:

"one or more subsidiary company of a holding company with one or more other subsidiary company of the same holding company where the transferor company or companies are not listed;

Illustration:— Company 'D' is the subsidiary of Company 'C' and Company 'C' is the subsidiary of Company 'B' and

in turn Company 'B' is the wholly owned subsidiary (WOS) of Company 'A'.

In this case Company 'B' is the WOS of Company 'A'. Company 'C' and Company 'D' are subsidiaries of the same holding company i.e. Company 'A'. Subject to the condition stated in the clause, schemes of merger or amalgamation or transfer or division between Company 'A', Company 'B', Company 'C' and Company 'D' or any combination thereof would be covered under this clause."

It is interesting to note that the CAA Amendment Rules have added an illustration demonstrating the applicability of the enabling provision in Rule 25(1-A)(v) beyond the meaning derived from a plain and literal reading of its provision. The illustration expands the enabling provision of Rule 25(1-A)(v) to include fast-track mergers and/or demergers between two different subsidiaries having a common holding company, when even one subsidiary is a holding company of the other.

d. Between a Foreign Holding Company and its Wholly Owned Subsidiary in India:

The MCA vide its notification dated September 9, 2024, introduced the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2024 and inserted sub-rule 5 under Rule 25A¹⁵ of the CAA Rules, which provides for the procedural steps that are required to be undertaken in the event of fast-track mergers and amalgamations between a foreign company¹⁶ (being the holding company) and its wholly owned subsidiary in India. However, the construct of Rule 25A(5) is such that it is not an enabling provision in accordance with which parties may undertake a fast-track merger or amalgamation between a transferor foreign company and its transferee wholly owned subsidiary in India. To address this gap, the CAA Amendment Rules has introduced Rule 25(1-A)(vi)¹⁷ to explicitly enable the aforementioned mergers and amalgamations, under the ambit of Section 233 of the Companies Act, thereby providing procedural clarity and formally recognizing that such cross-border mergers and amalgamations are eligible for the fast-track approval route.

B. Expanded scope of notice for inviting objections

Prior to the CAA Amendment Rules, a notice under Section 233(1)(a) of the Companies Act was required to be issued to the Registrar of Companies and the Official Liquidator where the registered office of the respective companies is situated or persons affected by a scheme of merger or amalgamation,¹⁸ for the purpose of inviting their objections or suggestions on a proposed scheme of merger or amalgamation.

However, the CAA Amendment Rules has inserted a proviso to Rule 25(1), which states that companies which are regulated by sectoral regulators such as the Reserve Bank of

¹¹ Rule 2(b)(ii) of the CAA Amendment Rules.

¹² This certificate shall be in the format of Form No. CAA-10A provided in the latest CAA Amendment Rules.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Rule 25A of the CAA Rules, prescribes the framework for mergers and amalgamations of Indian companies with foreign companies, including conditions, regulatory approvals, and filings required for cross-border mergers under Section 234 of the Companies Act, 2013.

¹⁶A "foreign company" means a company or body corporate incorporated outside India whether having a place of business in India or not, as provided in Explanation 1 of Rule 25A(5) of the CAA Rules.

¹⁷Rule 2(b)(ii) of the CAA Amendment Rules

¹⁸An "Official Liquidator" is a whole-time officer of the Central Government appointed under section 359 of the Companies Act, 2013 to oversee winding-up proceedings and related functions.

India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India or the Pension Fund Regulatory and Development Authority must now issue notices of the scheme to such relevant regulator seeking their objections or suggestions. The proviso also states that in case of listed companies, notices seeking objections or suggestions for a scheme of merger or amalgamation under Section 233(1)(a) of the Companies Act must now also be issued to the concerned stock exchanges. This obligation of issuing notices to the relevant regulators seeking their objections to the proposed scheme will be in addition to the requirement already provided in Section 233(1)(a) of the Companies Act. To that extent, the requirement under Section 230(5) of the Companies Act, with respect to regular merger and amalgamation procedures has been introduced in fast-track merger and amalgamation process to make the oversight obligations thereunder more robust.

C. Revised timeline to file the scheme with the Central Government

Section 233(2) of the Companies Act provides that a transferee company shall file a copy of the scheme of merger or amalgamation (as approved in meetings by the members and creditors of the company) with the Central Government, Registrar of Companies and the Official Liquidator where the registered office of the transferee company is situated.

The CAA Amendment Rules, under Rule 25(4)(a), has extended the period of filing the copy of the scheme to 15 (fifteen) days, from the erstwhile deadline of 7 (seven) days following the meetings of the members or creditors. Such copy must be filed along with a statement detailing how any comments or suggestions from sectoral regulators or the stock exchanges have been addressed within the scheme.¹⁹

D. Application of Fast-Track Provisions to Demergers and Transfers

The erstwhile CAA Rules was silent on whether the fast-track mechanism available under Section 233 of the Companies Act, could be applied to demergers, which led to ambiguity and inconsistent positions being taken by different Regional Directors.

The CAA Amendment Rules now removes this uncertainty by introducing Rule 25(9) under the CAA Rules, which states that the fast-track provisions under Rule 25 shall *mutatis mutandis* apply to a scheme of division or transfer of undertakings provided under Section 232(1)(b) of the Companies Act.²⁰

Our Analysis

The CAA Amendment Rules, is one among a series of changes that are likely to be introduced by the MCA to make the fast-track merger framework under section 233 of the Companies Act more robust.

The changes introduced by the CAA Amendment Rules provides tangible benefits by including a wider spectrum of corporate stakeholders within its fold. By virtue of the changes introduced by the CAA Amendment Rules, the following benefits are envisaged: (i) enabling a quicker and cost-efficient restructuring route for small and mid-sized enterprises that were earlier

constrained by the more onerous NCLT process under Section 230 to 232 of the Companies Act; especially when they're unlisted entities; (ii) enabling large corporate groups to promote operational efficiency, by allowing them greater flexibility in reconfiguring their structures by way of fast-track mergers and demergers between various group companies; (iii) increasing oversight in the fast-track merger and demerger process of entities operating in regulated sectors such as those of the Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India, Reserve Bank of India, Pension Fund Regulatory and Development Authority, etc.

The CAA Amendment Rules has enabled the undertaking of fast-track demergers, divisions, compromise and other arrangements envisaged under Section 232(1)(b) of the Companies Act. Further, it prescribes that the Central Government may make provisions of the nature specified in clauses (a) to (j) of Section 232(3) of the Companies Act, to the extent applicable. Therefore, for the purposes of making the process of fast-track demergers, divisions, compromise and other arrangements efficient and effective, it is imperative that these provisions are notified in timely manner without further delay such that the bottleneck of matters before NCLT is cleared and the CAA Amendment Rules is effective in essence.

That being said, in the larger scheme of things, the CAA Amendment Rules is a significant step towards concretising the Government of India's endeavour to simplify corporate reorganisation and enabling ease of business in India.

¹⁹Rule 2(d) of the CAA Amendment Rules.

²⁰Rule 2(e) of the CAA Amendment Rules.

Beyond the Stamp: Supreme Court Reinforces RERA as Primary Forum and Restricts IBC Misuse in Mansi Brar Fernandes Vs. Shubha Sharma

Introduction

In a landmark judgment delivered on September 12, 2025, the Supreme Court of India in *Mansi Brar Fernandes v. Shubha Sharma and Anr.* (Civil Appeal Nos. 3826/2020, 540/2021, 5495/2025, and 3903/2022) has reshaped the legal landscape for India's real estate sector, reinforcing the Real Estate (Regulation and Development) Act, 2016 (RERA) as the primary grievance redressal mechanism for homebuyers while restricting misuse of the Insolvency and Bankruptcy Code, 2016 (IBC). The ruling addresses a critical issue affecting the sector: stalled projects affecting over homebuyers and locking up investments worth trillions of rupees as of 2025. By distinguishing genuine homebuyers from speculative investors and prioritizing project revival over liquidation, the Court not only upholds the constitutional right to shelter under Article 21¹ but also delivers a robust framework for corporate accountability and business sustainability. This article delves into the corporate and business implications of the judgment, with a specific focus on its RERA-centric approach, analyzing its impact on stakeholders and the broader real estate ecosystem.

Background of the Case

The case arose from appeals against National Company Law Appellate Tribunal (NCLAT) orders that overturned the admission of insolvency petitions filed under Section 7² of the IBC by alleged homebuyers, including Mansi Brar Fernandes, against real estate developers. The NCLAT classified these petitioners as “speculative investors” rather than genuine homebuyers, citing agreements with assured returns and buyback clauses that suggested investment motives over residential intent. The Supreme Court, led by Justice R. Mahadevan, upheld this distinction, building on the precedent set in *Pioneer Urban Land and Infrastructure Ltd. v. Union of India*³ (2019), which recognized homebuyers as financial creditors under the IBC but cautioned against its misuse as a recovery tool. The Court emphasized that RERA, not IBC, is the primary forum for addressing homebuyer grievances such as delays or refunds, with IBC reserved for exceptional cases where insolvency is the only viable resolution path.

Key Legal Findings

The Supreme Court's ruling pivots on a critical distinction between genuine homebuyers—those seeking possession of a dwelling unit for shelter—and speculative investors, who treat allotments as financial instruments for profit. To prevent misuse of the IBC, the Court mandates a prima facie inquiry by the National Company Law Tribunal (NCLT) at the admission stage of Section 7⁴ petitions to evaluate the petitioner's intent. The following factors guide this determination:

- Assured Returns or Buyback Clauses

Agreements promising high returns (e.g., 20–25% annually) or buyback options, as seen in the appellants' Memoranda of Understanding (MoUs), indicate speculative intent rather than a desire for possession.

- Deviation from RERA's Model Agreement

Contracts diverging significantly from RERA's standardized format, which emphasizes possession and delivery timelines, suggest investment schemes.

- Parallel Recovery Proceedings

Filing under the Negotiable Instruments Act (e.g., for bounced cheques) alongside IBC petitions signals a focus on monetary recovery over housing.

- Unrealistic Financial Terms

Promises of exorbitant returns or alternative arrangements like post-dated cheques treat the flat as a financial asset.

- Coordinated Litigation

High volumes of similar petitions by unrelated parties may indicate pre-planned attempts to pressure developers.

Genuine homebuyers, protected as financial creditors with voting rights in the Committee of Creditors (CoC) via authorized representatives, retain priority for possession. Speculative investors, however, are barred from initiating CIRP but may pursue claims as operational creditors once proceedings commence or seek remedies under RERA or consumer forums. This framework ensures that the IBC serves its core purpose—value maximization through revival—rather than functioning as a debt enforcement mechanism.

Corporate and Business Implications

The judgment carries profound implications for real estate developers, investors, and the broader business ecosystem, reshaping insolvency practices and corporate governance in a sector critical to economic growth.

- Project-Wise CIRP as the Default Approach

The Supreme Court supports treating each real estate project as its own “project entity” when it comes to insolvency, a principle backed by the case *Flat Buyers Association v. Umang Realtech Pvt. Ltd.*⁵. This approach acts like a protective barrier, ensuring that if one project faces financial trouble, it doesn't drag down others under the same developer that are still doing well. By keeping healthy projects safe, it helps preserve property values, protect jobs, and support urban growth. For big companies managing multiple projects, this reduces the risk of a single failure causing widespread problems, but it also means they need to be extremely careful about keeping each project's finances separate to avoid other projects. This setup allows businesses to keep viable projects running smoothly, which can steady their cash flow and make them more attractive to investors.

¹INDIA CONST. art. 21.

²Insolvency and Bankruptcy Code, 2016, § 7, No. 31, Acts of Parliament, 2016 (India).

³(2019) 8 SCC 416

⁴Insolvency and Bankruptcy Code, 2016, § 7, No. 31, Acts of Parliament, 2016 (India).

⁵Company Appeal (AT) (Insolvency) No. 926 of 2019

– Promoter Accountability and Revival Mechanisms

The Supreme Court's decision cracks down on irresponsible promoters by barring them under Section 29A⁶ of the IBC from bidding to regain control during insolvency resolutions, sending a clear message against intentional defaults. At the same time, it offers a creative lifeline called "reverse CIRP," where honest promoters can stay in charge under the watchful eye of a Resolution Professional (RP), provided they secure funding, get homebuyers' approval, and show a genuine commitment to finishing the project—something already seen in the case of *Anand Murti v. Soni Infratech Pvt. Ltd.*⁷ This strikes a balance: it punishes reckless behaviour but gives ethical promoters a chance to save their projects, lowering the risk of liquidation and keeping trust alive in the market. For businesses, this opens doors to short-term financing to bridge gaps and encourages a culture of playing by the rules.

– Curbing Speculative Litigation

The Supreme Court's ruling puts a stop to speculative investors kicking off insolvency proceedings (CIRP), which helps clear the backlog clogging up the National Company Law Tribunal (NCLT), where real estate cases are a major burden. This means developers face lower legal battles, reduced lawyer fees, and cheaper insurance costs, making their finances a bit more predictable. On the flip side, it raises the bar for developers—they need to stick closely to RERA's standard agreement format. Investors, too, must be careful, as deals that look like they're chasing quick profits might get them labelled as speculators.

– Structural Reforms for Business Resilience

The Supreme Court proposes reforms to strengthen India's real estate sector, including an early-warning system based on global banking standards to detect payment defaults, a special fund to revive stalled projects, and an NARCL-like entity to manage distressed developments. These could unlock trillions in tied-up capital and drive 13% annual growth by 2030, with public-private partnerships enhancing expertise. While advocating formal "group insolvency" rules to streamline coordinated resolutions for large developers, such practices are already partially applied under the IBC through judicial coordination. Strict compliance is emphasized to prevent financial distress from spreading across group entities.

Overall, the ruling fosters a buyer-centric ecosystem, where corporate success hinges on transparency, timely delivery, and stakeholder equity. It enhances the sector's attractiveness to foreign direct investment and institutional funding, positioning real estate as a pillar of economic stability.

RERA as the Cornerstone

The judgment elevates RERA as the primary forum for homebuyer grievances, relegating the IBC to exceptional cases. This hierarchy addresses forum-shopping, where buyers bypassed RERA for IBC's creditor protections, and promotes regulatory synergy through the following measures:

– RERA's Model Agreement as a Benchmark

The Supreme Court emphasizes that agreements significantly deviating from RERA's standardized format (Sections 13–19) are considered speculative, promoting transparency in project registrations, clear delivery timelines, and buyer protections. Developers are urged to adopt possession-focused clauses to minimize disputes and comply with RERA's mandate to safeguard homebuyers.

– Dedicated project account

The Supreme Court highlights that, for early-stage projects, funds collected from allottees must be held in a dedicated project account and released in proportion to construction progress, as mandated by Section 4(2)(I)(D)⁸ of RERA. This prevents fund misuse, reduces default risks, and promotes financial discipline, ensuring project viability while protecting both developers and buyers.

– Buyer Safeguards in Insolvency

During CIRP, near-complete units can be handed over to willing allottees with RP and CoC approval, ensuring conflict-free voting and prioritizing possession. This aligns with RERA's focus on delivery, reinforcing buyer confidence.

– Regulatory Collaboration

The Court directs the Insolvency and Bankruptcy Board of India (IBBI) to consult RERA authorities within three months to formulate real estate-specific IBC guidelines, including pre-registration for project-wise resolutions. This bridges enforcement gaps, as RERA resolves approximately 90% of complaints pre-insolvency, reducing IBC's burden.

Directives and Future Outlook

The Supreme Court issues actionable directives to operationalize its findings:

■ IBBI Guidelines

Formulate real estate-specific protocols within three months, incorporating RERA input for project-wise CIRPs and possession facilitation.

■ NCLT Scrutiny

The National Company Law Tribunal (NCLT) must assess the intent of petitioners at the admission stage of insolvency proceedings to filter out speculative or frivolous claims.

■ Systemic Reforms

Establish early-warning systems, revival funds, and a specialized entity to address stalled real estate projects. While Reverse CIRP is partially codified via IBBI's 2025 regulations, full IBC integration is needed. Group insolvency, though practiced judicially, requires formal codification to streamline resolutions, enhance financial discipline, and protect homebuyers while unlocking capital.

These measures aim to expedite resolutions within 180–330 days, fulfilling the constitutional right to shelter and restoring market faith. For stakeholders, the judgment offers clarity: homebuyers gain stronger possession rights, developers face stricter compliance but gain revival paths, and regulators are tasked with harmonizing frameworks. By curbing IBC misuse and

⁶ Insolvency and Bankruptcy Code, 2016, § 29A, No. 31, Acts of Parliament, 2016 (India).

⁷ (2022) 4 JT 403

⁸ Real Estate (Regulation and Development) Act, 2016, § 4(2)(I)(D), No. 16, Acts of Parliament, 2016 (India)

empowering RERA, the ruling paves the way for a transparent, resilient real estate sector, potentially transforming a crisis-ridden industry into a driver of economic growth.

Our Analysis

Under the protective framework of RERA and IBC, the *Mansi Brar Fernandes* judgment (September 2025) conclusively distinguishes between genuine homebuyers and speculative investors. Honest homebuyers benefit from robust protections under RERA and IBC, prioritizing their right to shelter. Speculative investors, while afforded certain safeguards, receive protections that are not equally aligned with those of homebuyers, ensuring a balanced approach that reinforces accountability and supports the real estate sector's recovery.

Contributors

Amaresh Kumar Singh
Partner

Armin Pardiwala
Partner

Annapurna Sreehari
Senior Associate

Kermina Patel
Associate

Rishika Agarwal
Associate

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www.hsalegal.com



mail@hsalegal.com



HSA Advocates

PAN INDIA PRESENCE

New Delhi

Email: newdelhi@hsalegal.com

Mumbai

Email: mumbai@hsalegal.com

Bengaluru

Email: bengaluru@hsalegal.com

Kolkata

Email: kolkata@hsalegal.com