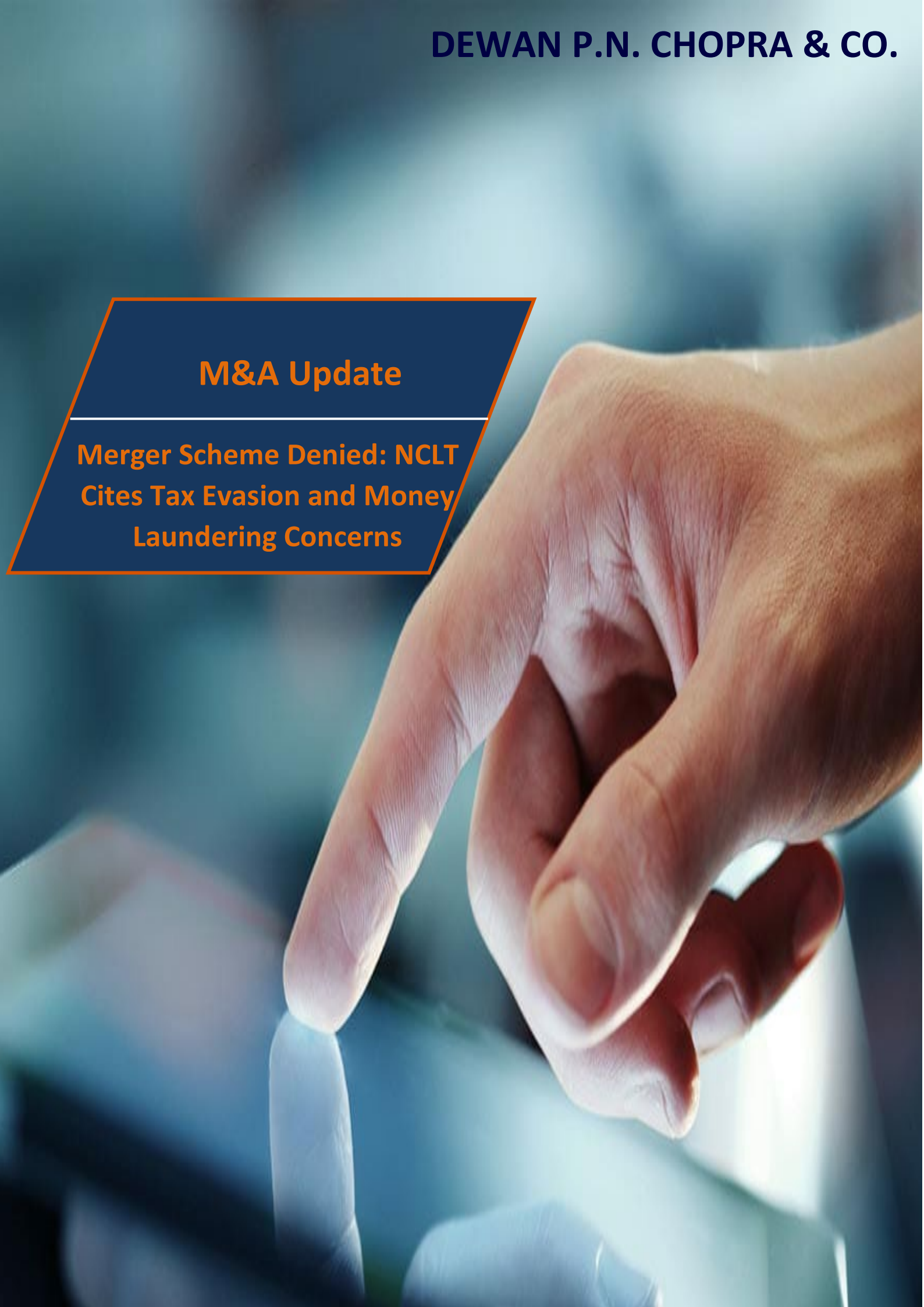


M&A Update

**Merger Scheme Denied: NCLT
Cites Tax Evasion and Money
Laundering Concerns**



Merger Scheme Denied: NCLT Cites Tax Evasion and Money Laundering Concerns

The National Company Law Tribunal (NCLT), Chandigarh Bench, delivered a significant judgment on July 23, 2024, regarding the joint second motion company petition filed under Sections 230 to 232 of the Companies Act, 2013. The petition involved Hologram Holdings Private Limited and Swen Holdings Private Limited as transferor companies, with Sulphur Securities Private Limited acting as the transferee company.

NCLT rejected the application seeking approval of a scheme of merger between 3 companies, on finding that "...the proposed amalgamation...is aimed at

legitimising the paper transactions carried out by the three applicant companies to artificially increase value of shares of the transferee company and thereby avoid payment of due taxes and to use this as a vehicle for money laundering.”, relies on NCLAT ruling in Wiki Kids and NCLT coordinate bench ruling in Gabs Investments;

The Income Tax Department submitted that a huge demand was pending against the Transferee co., and the case against it was reopened u/s 147 of the Income Tax Act, and that the Transferee Co. was a ‘conduit paper company’; Further, analysing the financial transactions of the Applicant cos. in detail, Tribunal observes, “The...narrations lend credence to the observation of the Income Tax Department that these are merely accommodation entries among a clutch of companies being controlled by one individual...”; In conclusion, NCLT holds that the

present proposal for amalgamation doesn't meet the objectives stated in the application itself, i.e. of providing synergy, cutting overhead costs, etc., and remarks, "This scheme, being unfair, unreasonable and not being in public interest cannot be sanctioned by this bench."

For details, please refer the NCLT Chandigarh Bench order *dated 23.07.2024*:

https://nclt.gov.in/gen_pdf.php?filepath=/Efile_Document/ncltdoc/casedoc/0404116008012022/04/Order-Challenge/04_order-Challenge_004_172179408865734897366a07e288eaec.pdf

DISCLAIMER: - The summary information herein has been compiled by our expert team of M & A Tax based on NCLT Chandigarh Bench order dated 23.07.2024. While the information is believed to be accurate, we make no representations or warranties, express or implied, as to the accuracy or completeness of it. Readers should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This note is not an offer, advice or solicitation. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.