



Scribbling Knowledge..

4th EDITION



This journal is a collective effort of every single student who has conducted research, gathered information, compiled it, and given their thoughts on topics that are extremely pertinent to the modern world. With every turn of page in this journal, you will encounter an article with remarkable ideas; ideas that have developed from the young and sharp minds of the students of our Academy.

The purpose of curating this journal was to give our students a platform to express their views on topics that required them to think outside and beyond the scope of their course's curriculum. Since it is scarcely a secret that writing an article on a certain subject demands the author to develop an opinion after conducting in-depth research, the concept of this magazine was adopted to help our students develop into unique individuals with their own set of opinions. We, at Yes, sincerely believe that it is crucial for students to have such a platform right from the very beginning of their careers, as it is these young minds that are going to be the leaders of tomorrow.

Yes Academy for CS & Law has always been guided by students' interests and welfare, and we thrive to do everything that is in our reach to further the same. We are positive that this journal is just the beginning of the remarkable contributions that our students are going to make in the legal and corporate world in the future.

We extend our warm regards to all the readers, and best wishes to our students who have shown extraordinary work through their writings.

Best,
Team YES



MESSAGE FROM THE CREATORS

CS Muskan Gupta -

"It gives me immense pleasure to see the enthusiasm with which students participate in the Article Writing Competition every year. Soch is not just a magazine; it is a reflection of young, vibrant minds sharing their perspectives on law and society. Each article represents hard work, creativity, and knowledge. My heartfelt congratulations to all the selected participants and best wishes for their future endeavors."



CS Vaibhav Chitlangia -

"The Article Writing Competition has always been close to my heart because it gives students a platform to express, analyze, and innovate. Through Soch, we witness budding legal minds articulating their thoughts on contemporary issues. To all the contributors—this is just the beginning; keep writing, keep growing!"

Adv. Vishishta Nayak -

"As a part of the organizing team, it fills me with pride to see the overwhelming response we receive every year. Soch brings together creativity, knowledge and opinions, making it a powerful medium of expression for law students. Congratulations to everyone whose work has been featured—your words truly have the power to inspire."



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CORPORATE TAX EVASION IN INDIA : LEGAL MEASURES AND REFORMS

Aashish S Kulkarni

Abstract: Corporate tax evasion in India poses significant challenges to fiscal stability, transparency, and equitable economic development. The regular misuse of legislative loopholes, manipulation of financial records and the increasing complex structures of multinational corporations have made combating tax evasion a priority for policymakers. Recent legal reforms which includes the implementation of the General Anti-Avoidance Rules (GAAR), the Black Money Act of 2015 and international commitments such as the OECD's BEPS framework—have strengthened the legal aspect against evasion. This article expresses the importance of firm-specific factors and tax haven linkages and the impact of major reforms like the Goods and Services Tax (GST) on compliance. This article has been made with the help of current literature, legal provisions and comparative

UNDERSTANDING THE TOPIC Corporate: Simply a fancy word for a company. You know, the legal "person" with rights and duties and perhaps more paperwork than emotions. Restructuring: Business renovation. Changing the way things are done in order to be faster, smarter or more profitable. Consider a business makeover—without the glitter.

Corporate Restructuring: Refers to company's decision for a major glow up— such as merging, splitting or simply reorganizing. studies to provide a comprehensive overview of the legal measures and reforms addressing corporate tax evasion in India. Introduction: Corporate tax evasion is a all time challenge for policymakers and tax authorities in India. This practice involving illegal concealment of income or misrepresentation of financial statements by corporations directly threatens India's fiscal stability and diminishes resources for social welfare and increases economic inequality. Despite numerous legal measures and continued reforms, corporate tax evasion remains a multifaceted issue shaped by

loopholes, execution challenges and global financial trends. This article shades light on the scale and impact of corporate tax evasion in India, explores the legal framework designed to mitigate it, analyzes notable cases and assesses recent reforms that aim to strengthen compliance and accountability.

Understanding Corporate Tax Evasion in India: Tax evasion is a illegal act of intentionally escaping from tax liabilities. In the corporate context, it states deliberate misreporting of income or deductions, concealment of assets and manipulation of financial details by businesses to escape their rightful tax obligations. Tax evasion is distinct from tax avoidance which involves leveraging legal loopholes; Tax evasion is a criminal offense.

Common methods of corporate tax evasion in India include: – Under-reporting sales and revenues – Creating false invoices or fictitious expenses – Routing transactions through shell companies or tax havens – Transfer pricing manipulation – Fudging of accounts and books – Concealing assets or investments

Scale and Impact of Corporate Tax Evasion: Financial Consequences India reportedly loses over \$10.3 billion (₹75,000 crore) annually to international corporate tax abuse and private tax evasion. Multinational corporations (MNCs) alone account for over \$10 billion in lost revenue each year. This lost tax revenue equals approximately 0.41% of India's GDP. Such massive revenue loss strains India's fiscal system, undermines investment in public services, and increases the country's dependence on borrowing. Economic and Social Effects Revenue loss from corporate tax evasion reduces the government's ability to fund essential infrastructure, healthcare, education and welfare schemes leading to budget deficits and underdevelopment. The tax burden is

unfairly shifted onto honest taxpayers and smaller businesses, distorting economic competition and incentives. Widening inequalities are a direct result, as large corporations equipped with sophisticated tax planning tools evade taxes while the less privileged face increased tax rates or reduced benefits. Tax evasion also erodes public trust in governance and weakens the rule of law.

Legal Framework to Counter Corporate Tax

Evasion: Income Tax Act, 1961 The Income Tax Act, 1961, forms the bedrock of India's anti-evasion laws. It prescribes penalties, interests and prosecution for a range of offenses:

- Under-reporting/misreporting income: Penalty of 200% of the tax evaded for misreporting, and 100–300% for willfully concealing income.
- Non-filing or delayed filing: Fines of ₹1,000–5,000 for individuals, higher for companies.
- Failure to comply with audit requirements (Section 44AB): Up to ₹1,50,000 or 0.5% of sales/turnover.
- Willful attempts to evade (Section 276C): Imprisonment ranging from a minimum of three months to seven years, plus fines, depending on the magnitude of evasion.
- Non-compliance with TDS/TCS rules: Penalties from ₹10,000 to ₹1 lakh, late filing fees of ₹200/day.

Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 This law specifically targets undisclosed foreign assets and income, seeking to curb the flow of unreported wealth abroad. It imposes strict penalties—tax plus an additional penalty of 300% on undisclosed income along with it criminal prosecution including rigorous imprisonment. **Prevention of Money Laundering Act (PMLA), 2002** Although originally focused on money laundering, PMLA provisions are increasingly invoked in tax evasion cases where funds illegally moved abroad are involved, enabling stricter investigation and asset seizure. **General Anti-Avoidance Rule (GAAR)** GAAR, enforced since April 2017, empowers tax authorities to deny tax benefits for distressing arrangements that lack commercial substance and are intended solely for tax avoidance. it acts as a wide-ranging deterrent, closing loopholes exploited through aggressive tax planning.

Methods of Detection and Enforcement: The Income Tax Department employs several mechanisms:

- Routine audits and scrutiny of tax returns
- Data analytics and big-data-driven pattern recognition
- Search and seizure operations
- Exchange of information with foreign tax authorities

- Use of informants and whistleblower rewards

Voluntary disclosure schemes have occasionally been offered, enabling entities to declare undisclosed income in exchange for immunity from prosecution or reduced penalties.

Notable Cases of Corporate Tax Evasion:

1. **Perfume Manufacturing Group (2021):** A Mumbai and Uttar Pradesh-based group was found to have under-reported perfume sales, shifted profits from taxable units to exempt units, and made sales with unrecorded 'kutcha'(Raw) bills, evading tax worth crores. Unaccounted income was invested in real estate in India and the UAE.

2. **Shell India (2013) & Cadbury India (2011, 2012):** Both companies faced tax proceedings and investigations for complex intra-group transactions allegedly designed for tax avoidance/evasion.
3. **Vodafone-Hutchison Deal:** The landmark case involving Vodafone's \$11 billion acquisition of Hutchison's telecom business led to intense legal scrutiny around tax avoidance and led to retrospective tax amendments.
4. **Mica Industries Limited and Related Entities (2018):** Directors and proprietors of Mica Industries Ltd. and related entities were arrested for creating multiple shell entities for circular billing and fraudulent claiming of Input Tax Credit (ITC), evading over ₹79 crore in taxes without actual supply of goods. Extensive documentation proved there was no movement of goods, making it a classic case of GST-era invoice fraud.
5. **Sahara India Pariwar Case (2014):** The Sahara Group was subjected to intensive income tax raids, which uncovered unaccounted cash and alleged violations involving Optionally Fully Convertible Debentures (OFCDs) issued against regulatory norms. The scale of hidden assets and financial complexities led to years of litigation as authorities sought transparency and investor reimbursements. The case underscored the need for stricter

financial regulations and transparency in corporate funding. These cases illustrate the scale and sophistication of corporate tax evasion, often involving cross border structures and complex schemes.

Tax Administration Reforms and Recent Initiatives Rate Rationalization and Simplification

- **Corporate Tax Rate Cut:** In 2019, the corporate tax rate for domestic firms was reduced to 22% (excluding surcharge and cess), and to 15% for new manufacturing units, aligning India's rates with global friends.
- **Elimination of Minimum Alternate Tax (MAT):** for select businesses simplified compliance for eligible businesses.
- **E-governance and Digitization:** The introduction of automated online filing, assessments, data analytics and e-scrutiny has minimized human discretion brought greater transparency and curtailed corruption. Advanced IT systems can spot patterns in transactions, identify mismatches in returns and trigger targeted problems.
- **Transfer Pricing and International Cooperation:** Under India's transfer pricing provisions, businesses must ensure that cross-border

transactions with nations associated are at 'arm's length' prices. Detailed reporting requirements and hard penalties aim to prevent manipulation. India is also an active participant in global tax initiatives such as the OECD's BEPS (Base Erosion and Profit Shifting) project, tightening norms around digital taxation and profit shifting. The Finance Act 2024: Latest Reforms

- **Foreign Corporate Tax Rate Cut:** The Finance Act 2024 reduced the tax rate for foreign companies from 40% to 35% to attract FDI and promote international competitiveness.
- **New Tiered Structure for Domestic Corporations:** For large domestic corporations a tiered structure based on scale and profitability was introduced. This aims for a fairer distribution of the tax burden and disincentivizes aggressive avoidance by more profitable firms although for most domestic corporates the headline rate remains steady.

- **Section 194T:** Mandates firms to deduct tax at 10% on payments to partners exceeding ₹20,000 further closing common loopholes used to siphon profits.

Challenges Still Facing Tax Enforcement: Despite strict laws and

technological upgrades authorities confront several hurdles:

- **Complexity of International Structures:** Corporate entities increasingly utilize sophisticated global networks, shell companies, and overlapping jurisdictions to obscure profits.

- **Resource Constraints:** The ratio of tax officers-to-taxpayers is low; enforcement agencies struggle with capacity, recruitment, and training.

- **Prolonged Litigation:** Lengthy court battles and appeals reduce the deterrent impact of prosecution and allow evaders more room for negotiation.

- **Loopholes and Grey Areas:** Rapidly evolving business models, especially in digital and crypto sectors, outpace legislative amendments.

Conclusion:

Corporate tax evasion poses a grave threat to India's economy and public revenue. The government over the years has enacted various ways of legal measures like the Income Tax Act, GAAR, PMLA and dedicated laws for black money while also investing in digital modernization and international collaboration. High-profile cases underscore both the scale of the challenge and the seriousness with which authorities can now pursue offenders. Key reforms, including those in the Finance Act 2024 signal determination to bridge loopholes and share the tax burden more fairly among corporations. However, tax evasion is ever-evolving, requiring legal and administrative initiatives to remain a step ahead investing in technology, international partnerships and culture-building to ensure broad-based compliance. Only then can India fully harness its corporate sector for inclusive growth, development and national prosperity.

CORPORATE RESTRUCTURING AND LEGAL ISSUES IN MERGER AND DEMERGER

Anushka Jain

INTRODUCTION Restructuring? That sounds expensive. Mergers or demergers? So many approvals. Legal issues? Oh no, that sounds like a lawyer's dream and a manager's nightmare. That's usually the very first reaction when someone hears about procedural side of corporate restructuring. People immediately imagine long courtroom hearings, endless paperwork and documentation, delays, roadblocks, intimidating acronyms NCLT, SEBI, RBI, due diligence and compliance which sounds more like trouble than tools especially when they come with deadlines, checklists and late-night coffee- fuelled panic. But wait- what if we've got it all wrong? Let's flip the story! What if these so called "legal issues" are actually the stepping stones towards corporate integrity? What if they empower businesses rather than restricting them? Companies cannot afford to remain static in today's volatile and highly competitive business environment. Corporate restructuring, whether a large corporation joins forces with another (merger) to generate synergies or splitting into smaller and more focused units (demerger) to unlock values, these moves has become critical to survival, scale and impossible without expert guidance. And yes, that includes legal advice. However, transformation must go hand in hand with legal compliance. The topic in hand- "Corporate restructuring and legal issues in merger and demerger" sound a bit heavy at first but trust me, it's actually quite interesting once you break it down and connect it to real case laws, with a fresh perspective and maybe even a little appreciation for unsung hero of every big corporate move: the law.

UNDERSTANDING THE TOPIC Corporate: Simply a fancy word for a company. You know, the legal "person" with rights and duties and perhaps more paperwork than emotions. Restructuring: Business renovation. Changing the way things are done in order to be faster, smarter or more profitable. Consider a business makeover-

without the glitter.

Corporate Restructuring: Refers to company's decision for a major glow up- such as merging, splitting or simply reorganizing.

Legal issues: The drama! No roadblocks, just rules to follow so that the glow-up does not become a legal flop. Like wearing a helmet for your own protection.

Merger: When two companies say "Let's be one". Sometimes for love (synergy) or power (market share), always with lawyers involved.

Demerger: When one company says, "Let's go solo". More like giving departments their own space to shine- not always a breakup, but sometimes a strategic split.

Now, let's flip the script. View the topic from a perspective of a Tool for empowerment and not obligation. Instead of viewing legal issues as roadblocks, consider them a powerful tool in a smart business toolkit. Restructuring is not forced; it's a choice, and the law can help you do it correctly. The law isn't there to trap businesses; it's here to help them grow without falling flat. So, plot twist: legal compliance is actually your best ally.

CORPORATE RESTRUCTURING: A STRATEGIC NECESSITY

Corporate restructuring is not a luxury; it is a necessity in today's dynamic environment, it allows businesses to: Align with strategic objectives, optimize resources allocation, enter or exit specific markets, reduce debt or mitigate risk and increase competitiveness or shareholder value. The law facilitates these changes by providing structured legal routes and ensuring that the interest of creditors, shareholders, employees, general public and other stakeholders are not compromised.

LEGAL FRAMEWORK GOVERNING RESTRUCTURING IN INDIA The primary legislation includes:

- Companies Act, 2013- sections 230-232
- SEBI (LODR) Regulation, 2015- For listed companies

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- Income Tax Act, 1961- Tax neutrality and exemptions
 - FEMA, 1999- For cross- border transactions
 - IBC, 2016- For distressed company resolutions
 - RBI Guidelines- For financial sector companies
- These are not merely statutory hurdles but are laws that brings clarity, uniformity, predictability and ensures decisions are lawful, balanced and inclusive which are essential for smooth and fair transactions.

Judicial view: Building trust, not tension The judiciary's role in corporate restructuring is not to question business strategies, but to ensure that procedures are legally sound and equitable to stakeholders. The Supreme court clearly states that courts should not interfere with commercial wisdom of shareholders unless the scheme is patently unfair, prejudicial or against the public interest.¹ No court of law would ever countenance any scheme of compromise or arrangement arrived at between the parties and which might be supported by the requisite majority if the Court finds that it is an unconscionable or an illegal scheme or is otherwise unfair or unjust to the class of shareholders or creditors for whom it is meant. Once a merger or demerger scheme is approved by shareholders and sanctioned by National Company Law Tribunal (NCLT), it is legally binding on all parties, offering predictability and protecting it from the endless litigation or minority sabotage. Tribunals and courts act more like facilitators than hurdles. Their roles are limited to checking compliance, fraud or procedural lapses – not overriding business logic. **Valuation: Balancing interests, not just numbers** Valuation is the heart of any merger or demerger as it affects shareholders entitlement, share swap ratios and investors' confidence and legal recognition of expert input facilitates smoother, faster transactions and instils confidence in restructuring process. Valuation is a matter of expert opinion, and it should not be challenged unless there is clear evidence of fraud or unfair. In one case, Valuation had been done by independent Chartered Accountants and 99% of shareholders approved the scheme after seeing all relevant disclosures.² Despite the allegations, the Court emphasized that no solid evidence was presented to demonstrate that

valuation was grossly unfair, thereby upholding the scheme. Courts maintain restraint in such cases, allowing businesses to rely on financial experts thus improving accuracy, transparency and reducing disputes.

Tax Treatment and Appointed date: Making restructuring Attractive

The appointed date in a merger or demerger scheme is critical because it influences asset and liability transfers, tax computation, balance sheet treatment. The Supreme Court, in *Marshall Sons & Co. (India) Ltd. v. ITO*,³ confirmed that this date must be honoured even if the NCLT order comes later, reinforcing legal certainty.

What's more- tax laws reward smart restructuring. Qualifying mergers and demergers are exempt from capital gains tax u/s- 47. Section 72A and 49(2C)/(2D) permit loss carry-forwards and cost allocations. These are not burdens; they are built-in benefits that demonstrate how the law encourages and supports effective corporate restructuring. **Transparency and stakeholder protection: The legal backbone** Transparency is not just a checkbox; it is a superpower. Law requires businesses to disclose the impact on stakeholders, employee interests, pending litigation and changes in control. This creates trust. These disclosures increase credibility, making approvals faster and smoother.⁴ Legal mandates are not burdens in this context; rather, they serve as filters to keep corporate actions ethical, investor-friendly and the future ready. **Minority and creditor rights: Legal equality for all** As per section 230(6) of the Companies Act, 2013 mergers and demergers need approval from a majority in number and 75% in value of stakeholders. But here's the kicker- even a 10% minority can object. That's not a hurdle, that's legal empowerment. Laws ensure that schemes are fair to all, not just the big players. Proper exit routes, transparent buyouts and equitable treatments are essential-not optional.⁵ **Professionals as Enablers** Company Secretaries play a vital role in:

- Drafting scheme of arrangement
- Ensuring compliance u/s- 230 as well as all

-
- the applicable laws, rules and regulations
 - Assisting regulators
 - protecting the rights of stakeholders
 - Ensure due diligence and disclosures
- and many more

As the corporate enablers, they convert the law into business decisions. Professionals become empowered when they view law as a tool, not a limitation. Strategic insights: What smart companies do. Businesses that view restructuring as merely legal issues frequently wind up fighting fires. Those who perceive it as a strategic opportunity make better preparations like:

- Engaging legal experts early
- Communicating with clarity
- Integrating Compliance as a culture
- Using disclosures strategically
- Governance = Market respect

CONCLUSION

At last, let's get real. Let's stop pretending that laws are the issues in our corporate story instead they are the plot twist, the game changer that keeps the story smart, fair and worth watching. Because without the legislation, restructuring would be a group project without rules- biased, chaotic and full of regret. What we have instead is a system that says: Valuation? Protected. Minority rights? Respected. Taxes? Optimized. Transparency? Mandatory, which actually helps companies grow smarter, safer and stronger with dignity and purpose. So, next time someone complains that legal issues and procedures are a burden, respond with a smile and ask, Burden? No. It's called governance with a spine. Because in the overall context of business evolution, the plot twist is what makes the entire story worth watching not the villain. So, let's not fear the law- let's use it. Let's restructure not just organisations, but also our mindset. Because at the end of the day, Legal issues aren't a limit – they're a leverage. CITATIONS: 1. Miheer H. Mafatlal v. Mafatlal Indus Ltd., (1997)

1 SCC 579 (SC)

2. Sesa Indus Ltd. V. Krishna H. Bajaj & ors., (2003) 117 Comp Cas 852 (Bom.)

3. Marshall Sons & Co. (India) Ltd. V. ITO (1997) 23 ITR 809 (SC)

4. Tata Chemicals Restructuring Scheme, NCLT Mumbai Branch, CP No. 1171/2019

5. Sandvik Asia Ltd. V, Bharat Kumar Padamsi, (2009) 149 Comp Cas 535 (Bom.)

CORPORATE BUSINESS TAXATION IN A GLOBALIZED ECONOMIC ENVIRONMENT

Apurva Karwa

Cross-border taxation mechanisms and transfer pricing regulations continue to transform dynamically, having experienced substantial modifications in contemporary years. Alterations in fiscal legislation, administrative practices, or the stance of revenue authorities worldwide can generate meaningful consequences for multinational corporate groups. Economic shifts driven by globalization and digitalization substantially reshape conventional tax structures.ⁱ Emerging compliance challenges and global taxation of digital economic activities further contribute to increasingly complex international tax architectures.ⁱⁱ Cross-border tax and transfer pricing practice offers guidance on diverse aspects while considering organizational specific requirements and commercial objectives.

Business Taxation: Regulatory Architecture Business taxation represents a fundamental component of corporate finance, influencing enterprises across all scales and sectors. It constitutes the levy imposed on corporate earnings, and comprehending its essential components proves crucial for effective financial planning, regulatory compliance, and strategic decision-making. Corporate taxation denotes a direct levy imposed by governmental authorities on earnings or profits generated by corporations. Unlike personal income taxation, which is levied on individual earnings, corporate taxation specifically focuses on business entities, encompassing both domestic and multinational enterprises. Revenue generated through corporate taxes serves as a substantial income source for governments and funds public services, infrastructure development, and other governmental operations. Strategic utilization of deductions, exemptions, and rebates, combined with efficient management, can substantially reduce tax obligations through capital gain provisions, donations to charitable organisations, dividend distributions, and employment-related deductions that provide an incentive for job creation. Corporate tax rates for domestic

companies in India stand at 25% for companies with turnover up to ₹400 crore, 30% for larger entities, and 15% for new manufacturing companies under specific conditions. However, foreign companies face higher rates of 35% (reduced from 40%). Companies operating in India must fulfil various obligations including obtaining permanent account numbers (PAN) and tax deduction and collection account numbers (TAN). Organizations must remit advance tax instalments when estimated liability exceeds prescribed thresholds, file electronic income tax returns by specified deadlines, deduct tax at source on various payments, and maintain proper accounting records for at least eight years. Understanding corporate tax rules in India can be difficult for many businesses. The tax system is complex, and the rules change often. Because of this, companies may find it hard to follow all the laws correctly. To deal with this, businesses should try to stay updated by learning about any changes in tax rules. It also helps to take advice from experienced tax professionals who can guide them with planning and compliance. Keeping proper records is also very important. Using good accounting software and doing regular checks or audits can help avoid mistakes. Apart from this, businesses must remember to complete all tax duties on time. This includes paying advance tax, deducting TDS, and filing income tax returns before the due date. To make sure nothing is missed, it is useful to prepare a compliance calendar and use automation where possible. These steps can reduce errors, save time, and make it easier for companies to meet their tax responsibilities.

Transfer Pricing: Regulatory and Legal Challenges Transfer pricing generally describes the valuation of transactions between associated enterprises conducted under conditions potentially

differing from independent enterprise dealings. It represents the value assigned to transfers of goods, services, and technology between related entities in different territories. Transfer pricing also encompasses value attribution for transfers between unrelated parties controlled by a common entity. The term refers to the pricing of goods and services exchanged between companies under common control. When a subsidiary sells goods or provides services to its parent company or sister company, the charged price constitutes the transfer price. In taxation and accounting contexts, transfer pricing encompasses rules and methodologies for pricing transactions within and between enterprises under common ownership or control. Due to potential for cross-border controlled transactions to distort taxable income, revenue authorities across numerous countries can adjust intra-group transfer prices differing from arm's length dealings. The Organisation for Economic Co-operation and Development (OECD) and World Bank recommend intra-group pricing rules based on the arm's length principle. The concept of arm's length principle can be understood as follows. The arm's length principle requires that prices established between two unrelated companies reflect genuine market negotiations. This arm's length price generally proves acceptable for tax purposes. However, when two related companies trade with each other, they may attempt to artificially manipulate recorded prices to minimize overall tax obligations, potentially concentrating profits in tax haven jurisdictions with minimal or zero taxation. Hence, we can conclude that transfer price is not arm's length price. The principle of transfer pricing serves several key objectives such as generating separate profits for each division while enabling individual performance evaluation, and affecting both reported profits and company's resource allocation decisions. Transfer pricing rules allow tax authorities to adjust prices for most cross-border intra-group transactions, including transfers of tangible or intangible property, services, and loans. Significant Transfer Pricing Case References:iv Sony Pictures Networks India Pvt Ltd. vs Deputy Commissioner of Income Tax (Bombay Tribunal, March 13, 2020):

The tribunal determined that distribution fees cannot be classified as 'Royalty' for allowable expenditure purposes. Acer India Pvt Ltd. vs Deputy Commissioner of Income Tax (Bangalore Tribunal, March 5, 2020): The tribunal held that for products sold to uncontrolled entities without value addition, the Resale Price Method (RPM) represents the most appropriate method and should be preferred over the Transactional Net Margin Method (TNMM). Sterling Commerce Solutions India Pvt Ltd. vs Deputy Commissioner of Income Tax (Bangalore Tribunal, September 30, 2019): The tribunal established that functionally dissimilar companies with different risk profiles cannot be considered suitable comparable for transfer pricing analysis.

International Taxation Framework

International taxation addresses rules and principles governing how income and profits face taxation across national boundaries. In today's globalized economy, individuals and companies frequently engage in international transactions making understanding of such taxation mechanisms essential. The primary objective ensures fair income taxation without taxing the same income twice while preventing tax avoidance or evasion. The framework rests on core principles that determine taxing rights allocation between countries. These principles aim to prevent multiple taxation of identical income while closing loopholes that enable tax avoidance. Clear rules establish support for fairness and cooperation in global tax systems. Transfer Pricing in International Context Transfer pricing significantly impacts international taxation through profit distribution across different countries, directly influencing multinational company tax obligations in each jurisdiction. Without proper regulation, companies may manipulate transfer prices to shift profits to over-tax jurisdictions. Tax authorities require adherence to the arm's length principle, ensuring prices match those unrelated I companies would charge in similar circumstances. Many countries have implemented strict documentation requirements and reporting obligations

for transfer pricing practices. These measures promote fairness while reducing manipulation risks. Double Taxation Avoidance Agreements Tax treaties, also known as Double Taxation Avoidance Agreements (DTAAs), represent agreements between two or more countries to coordinate tax systems in cross-border situations. These treaties prevent double taxation by ensuring identical income avoids taxation by both countries. They clarify taxing rights by specifying which country has authority over various income types including dividends, interest, and royalties. DTAAs provide predictability by establishing clear rules and promote cooperation through information exchange between tax authorities. India has signed DTAAs with over 88 countries, with 85 agreements currently effective. Global Minimum Tax Initiative The Global Minimum Tax (GMT) represents a significant development in international tax policy, addressing profit shifting and base erosion by ensuring large multinational corporations with annual revenues exceeding €750 million pay a minimum effective tax rate of 15% regardless of their operational location. This reform reflects growing need for coordinated global efforts and robust legal mechanisms ensuring fairness and transparency in cross-border taxation. The GMT operates through a two-pillar approach under the OECD framework, with Pillar Two focusing on the minimum tax implementation.v The initiative received support from over 135 countries and commenced implementation in 2024. **Base Erosion and Profit Shifting (BEPS)** Base Erosion and Profit Shifting (BEPS) encompasses tax planning strategies multinational companies employ to exploit gaps and differences between tax rules across jurisdictions. These strategies artificially shift profits to low or no-tax jurisdictions with minimal economic activity. The OECD estimates annual revenue losses from BEPS at \$100 to \$240 billion USD. The OECD developed a comprehensive 15-point action plan addressing BEPS issues, including actions to address digital economy tax challenges, neutralize hybrid mismatch

arrangements, strengthen controlled foreign company rules, and ensure transfer pricing outcomes align with value creation.

To conclude, international taxation and transfer pricing continue to evolve rapidly in response to global economic changes. Current frameworks require simplification of legal structures, establishment of clear limits on profit shifting, and enhanced treaty enforcement. Regular reforms, stronger compliance mechanisms, and international cooperation remain essential for ensuring fair taxation and maintaining transparent global tax systems. The implementation of initiatives like the Global Minimum Tax and continued development of BEPS action plans demonstrate international commitment to addressing tax challenges arising from globalization and digitalization.viii These developments require careful balancing of global compliance with domestic economic interests while maintaining investment attractiveness. The path further calls for collaboration, consistency, and adaptability. As the global economy grows more interconnected, tax systems must remain responsive, fair, and inclusive to meet the evolving needs of nations and businesses alike.

THE ROLE OF CORPORATE LAW IN PROMOTING INNOVATION AND INTELLECTUAL PROPERTY PROTECTION

Aryan Wagh

In today's fast paced world protection is important (Don't take it otherwise) by protection I mean safeguarding what's yours from being stolen by others. Nobody wants a third person to get the credit of their idea or innovation that's why protection of intellectual property is more important. That is where corporate law steps in acting as a guardian or protector of intellectual properties giving entrepreneurs the confidence to invent new ideas and products without the fear of them being stolen. So, in this article I am going to discuss the role of corporate law in promoting innovation and intellectual property protection. Before moving forward did you know that "According to a 2020 report by the World Intellectual Property Organization (WIPO), companies that effectively manage and protect their intellectual property generate up to 40% more revenue and grow twice as fast as companies that don't. But wait – what exactly is intellectual property? Intellectual property is creations of mind such as symbols, designs, artistic works that is protected by law. The author has exclusive rights over his intellectual property. Following are the types of intellectual property:

- Patents: It protects the inventions and grants the inventor exclusive right to sell or make use of the product for a certain period of time i.e. 20 years. Example – A new drug formula.
- Design: It is the aesthetic or ornamental aspect of an object. Example – Design of furniture.
- Copyright: It is the right over the original literary, artistic, musical, dramatic work. Example – Harry potter books.
- Trademark: It is the brand logo, slogan, name used in trade and commerce. Example – Nike "swoosh" logo.
- Trade secrets: It is the confidential business information that gives a competitive edge. Example – Coca Cola's formula.

So, this was all about what is intellectual property but how exactly does corporate law step in to protect all this intellectual stuff? Let's break it down.

1. Law provides a legal structure for individuals to register their innovations making it easier for the

true owner to claim ownership. 2. Law has strict provisions relating to transfer and lease of intellectual property making it harder to find any loopholes and misuse one's intellectual property. 3. Law imposes heavy fines and penalties on the infringer of intellectual property. 4. Law provides for dispute resolution mechanism in case of any dispute enhancing confidence of owner of the intellectual property.

CASE LAWS

Star India Pvt. Ltd. vs Moviestrunk.Com & Ors. *Star India Pvt. Ltd. vs Moviestrunk.Com & Ors.* was a copyright infringement case concerning the unauthorized distribution of films, specifically "Mission Mangal," on various websites. Star India, holding the exclusive rights to the film, sued 67 defendant websites for copyright violation, alleging they facilitated the communication, viewing, and downloading of infringing copies of the film. The Delhi High Court, in its judgment, ruled in Favor of Star India, finding the defendant websites to be "rogue websites" involved in distributing unauthorized copies of copyrighted material.

i o *International Society for Krishna Consciousness vs. ISKCON Apparel Pvt. Ltd. and Ors.* *International Society for Krishna Consciousness vs. ISKCON Apparel Pvt. Ltd. and Ors.* Case relates to trademark infringement. In this case Bombay High court stated that plaintiff's organisation has world wide belief classifying it under the definition of "well known" trademark under section 11(6) & 11(7) of Trademarks Act, 1999. The defendant with the intention to deceive public sold clothes on an online platform under the name "ISKCON" making it believe to be the real one. The Bombay High court passed judgement in favour of the plaintiff under Trademarks Act, 1999.

ii o *F. Hoffman-La Roche Ltd v Cipla Ltd.* *F. Hoffman-La Roche Ltd v Cipla Ltd.* Case relates to patent infringement. In this case plaintiff had a patent for the drug called as Erlotinib

Hydrochloride. The plaintiff in its application has also stated that its compound form can exist in different forms and any such forms will be covered by its patent. On the other hand, the defendant made an application for patent of a generic drug "Erlonic" which is manufactured using a compound of Erlotinib Hydrochloride. The Delhi High Court held that it is a clear infringement of patent rights and passed the judgement in favour of the plaintiff.ⁱⁱⁱ These cases highlight the importance of intellectual property rights (IPR) protection. Now let's discuss the significance of intellectual property rights.

1. Promoting innovation: Intellectual property rights provide a legal recognition to one's idea which promotes innovation. It motivates the businesses to create new technologies and products which will help the mankind.
2. Promotes economic development: New ideas and innovations would attract increased foreign investments in the country leading to the overall development of the country. It would help the developing countries to change their status into developed country more rapidly.
3. Provides competitive edge: A business having unique products and technologies helps it to distinguish from other businesses in the same market. This differentiation provides a market edge to the business.
4. Increases consumer confidence: Trademark helps in authentication of one's product. Strong IPR protection prevents counterfeiting and ensures quality products.
5. Promotes Research and Development: Strong intellectual property laws boost research and development sectors. It increases revenue generation in research and development sectors.
6. Protects small businesses: Small business entrepreneurs are protected from the large businesses due to strict Intellectual Property laws. Big business organisations can easily find a way to capitalise the innovations of small businesses with the help of money.
7. Provides income stream: Intellectual Property Rights are transferrable in nature so businesses can commercialize their Intellectual Property Rights by way of lease, assignment, licensing, etc which helps in revenue generation. However Intellectual Property Laws are not only limited to national boundaries and they extend their co-operation with international treaties as well. Let's

take a deeper look into the international treaties and why is it important to globally safeguard the Intellectual Property Rights. Corporate laws in many countries are aligned with the global treaties and agreements like the TRIPS Agreement (Trade - Related Aspects of Intellectual Property Rights) under the World Trade Organization and the guidelines of the World Intellectual Property Organization (WIPO). These agreements and treaties help create a uniform standard for IP protection across nations, making it easier for businesses to operate globally while securing their innovations. For companies engaged in international trade, these legal frameworks are essential for protecting their brands, technologies, and creative content across different markets. By complying with international IP standards corporate law not only safeguards innovation but also fosters cross border growth, investment, and collaboration. Following are some of the international treaties:

- TRIPS Agreement: TRIPS (Trade - Related Aspects of Intellectual Property Rights) Agreement is enforced by the World Trade Organization (WTO). It sets out minimum standards for Intellectual Property protection including patents, copyrights, trademarks and trade secrets that all member countries must follow.
- WIPO (World Intellectual Property Organization): WIPO is a specialized agency of the United Nations which promotes cooperation between nations in Intellectual Property matters. It administers several treaties like:
 - The Paris Convention - for protection of industrial property (e.g., patents, trademarks)
 - The Berne Convention - for protection of literary and artistic works (e.g., copyrights)
 - The Madrid System - for international trademark registration.
- Patent Cooperation Treaty (PCT): PCT is administered by WIPO, the PCT simplifies the process of applying for patent protection in multiple countries. Instead of filing separate patent applications in each country, inventors can file one international application. It saves the time of inventors and helps in swift entry into the market. Despite the legal frameworks in place, protecting intellectual property in reality still comes with

several challenges

Challenges in safeguarding Intellectual property:

- Counterfeiting and piracy: Counterfeiting and piracy is most common especially in India. It not only harms the businesses but also misleads the consumers. Many products especially in fashion are copied and sold at cheaper rates which harms the reputation of original business and misleads the customers.
- Litigation costs and delays: The litigation costs associated with Intellectual Property cases are very high. Small businesses cannot afford such costs. The time required to reach the judgement is very long which creates a negative image of Intellectual Property Laws in India. But with everything changing so quickly, have you ever wondered how IP laws will keep up in the future? With technology growing so rapidly it's important that intellectual property laws also need to change with time. A big question arises that whether things created by AI can be protected by Intellectual Property Laws? Since AI being an artificial entity it does not fit under the traditional definition of who owns an idea or innovation. Additionally, as the world focuses on sustainability and eco friendly innovations, Intellectual Property laws will have to support inventions in green technology. The existing IP laws should be made stricter without leaving any loopholes. To sum it all up, the role of corporate law in protecting innovation and Intellectual property protection is more important than ever. At the end of the day, protecting innovation isn't just about law, it's about supporting progress, creativity and fairness for everyone. I hope my article gives valuable information to the fellow reader.

CORPORATE SOCIAL RESPONSIBILITY IN INDIA – LEGAL MANDATES AND ITS EFFECTIVENESS

Bhakti A Shetty

Corporate Social Responsibility: Where Profits Meet Purpose and Law Meets Legacy

"You don't build a business. You build people, and then people build the business." – Zig Ziglar Imagine a world where companies do more than just chase profits—where they actively contribute to building a better society and a healthier planet. This is the essence of "Corporate Social Responsibility" (CSR). Far beyond a trendy term, CSR has become a core principle for business that aim to operate with integrity and purpose. As people grow more conscious of environmental and social issues, the demand for responsible corporate behaviour is rising. This article explores how CSR is transforming business strategies and why embracing it is now a necessity rather than a choice. Modern businesses are evaluated not just by their profitability but also by their ethical compass. With global challenges like climate change and inequality, companies today are expected to serve as engines for societal improvement, not just profit centres. CSR or Corporate Social Responsibility refers to an approach where businesses incorporate social and environmental priorities into their operations and stakeholder relations, aiming to foster sustainable growth. Key elements of CSR include: voluntary initiatives, environmental and social impact, stakeholder involvement, and ethical conduct. CSR seeks to ensure a balance between financial, societal, and environmental outcomes for long-term sustainability. With the rise of global business operations and recurring corporate scandals, the spotlight has intensified on the responsibilities and roles companies must uphold. As a result, businesses now face growing demands to act ethically and to create frameworks such as policies, codes of conduct, and values that reflect their commitment to stakeholder expectations. Being socially responsible is not just about following legal requirements; it involves going a step further to fulfil broader social duties. Corporations must

genuinely embrace these responsibilities, as relying solely on economic growth is neither sustainable nor beneficial for long-term business success.

CSR in India – Evolution, Legal Framework (Section 135), Schedule VII

CSR is deeply rooted in Indian traditions, long before legal codification. The values of 'dharma' and 'daan' historically inspired leaders, traders, and households to support their communities. Economic reforms brought global exposure to Indian firms, making CSR a component of brand value and sustainability influenced by global investors. Icons like J.R.D. Tata, G.D. Birla, and Jamnalal Bajaj set early examples through structured giving. The landmark shift came with the Companies Act, 2013, making India the first nation to mandate CSR. Section 135 legally obligated companies to align their business interests with social responsibility. The Legal Framework: CSR and the Companies Act, 2013 According to Section 135, companies meeting any of the following:

- Net worth of ₹500 crore or more,
- Turnover of ₹1,000 crore or more, or
- Net profit of ₹5 crore or more must allocate at least 2% of their average net profits over the past three financial years to CSR initiatives mentioned in Schedule VII. These include:

- Education and gender equality promotion
- Healthcare and sanitation
- Environmental conservation
- Rural advancement
- Disaster relief, among others

The CSR Rules, 2014, and amendments in 2021 have added stricter guidelines around planning, execution, and reporting. CSR is no longer optional — it is central to national development. Since CSR became mandatory, Indian companies have significantly increased their social development initiatives. Many go beyond the required 2%, making CSR part of their organizational ethos.

Let us go through the Case Studies or Success Stories of – Tatas, Infosys, Reliance, ITC Top Corporate Contributors to CSR in India 1. Tata Group Key Companies: Tata Steel, TCS, Tata Motors, Tata Power Spend: ₹500+ crore combined Focus Areas: Education (scholarships), rural growth, water preservation, healthcare Key Projects: Tribal education by Tata Trusts, cancer care, Tata Power's "Club Energi"

2. Reliance Industries Ltd (RIL) CSR Arm: Reliance Foundation Spend: ₹1,000+ crore Focus: Health, education, disaster response, rural transformation, sports Key Projects: Reliance Foundation Hospital, COVID-19 programs like Mission COVID Suraksha 3. Infosys Limited CSR Arm: Infosys Foundation Spend: ₹325–₹400 crore Focus: Education, culture, public health Key Projects: Heritage monument restorations, toilet/hospital construction, teacher training 4. Wipro Limited CSR Arm: Wipro Foundation Spend: ₹200+ crore Focus: Education for underserved communities, urban jobs, sustainability Key Projects: Wipro Earthian, inclusive education initiatives 5. HDFC Bank CSR Spend: ₹700+ crore Program: Parivartan Focus: Livelihoods, skill-building, hygiene, finance education Key Projects: Holistic Rural Development Programme, COVID-19 support 6. ITC Limited Spend: ₹300–₹400 crore Focus: Watershed, education, waste management, women empowerment Key Projects: e-Choupal, "Wellbeing Out of Waste" recycling drive 7. ONGC (Oil and Natural Gas Corp.) Spend: ₹500+ crore Focus: Skills, health, infrastructure Key Projects: Medical outreach, school facilities 8. Larsen & Toubro (L&T) Spend: ₹150–₹200 crore Focus: Vocational training, disaster readiness, sanitation Key Projects: Low-cost toilets, Construction Skills Training Institutes. Challenges and Criticism in CSR – Greenwashing, Poor Planning, Lack of Transparency CSR is not just charitable spending. It's core to responsible business. However, several barriers affect its effective implementation:

- Superficial Initiatives: Activities carried out for branding rather than real outcomes
- Lack of Alignment: Disconnection between CSR and company vision
- Weak Oversight: Poor evaluation and tracking
- Execution Issues: Inadequate partners, delays, or fund misuse

- Compliance Load: Smaller firms face difficulty in meeting CSR legalities. CSR aligned to Nation Building and the Future of CSR in India CSR has moved from benevolent giving to strategic responsibility. It bridges the divide between economic advancement and social progress. With its alignment to ESG and sustainability goals, CSR is poised to be a critical lever for inclusive development. It strengthens national initiatives like:

- Skill India
 - Swachh Bharat
 - Digital India
 - Make in India (Atmanirbhar Bharat) CSR enhances public service delivery, encourages community trust, and supports India's SDG objectives. What the Future Holds:
 - Greater integration with core business
 - More emphasis on impact assessment
 - Alignment with global sustainability frameworks
 - Leveraging tech for scale and efficiency
 - Scope for partnerships between government and corporates
- CSR in India is evolving into a mechanism for sustainable development backed by legal mandate and cultural responsibility. Having a legal insight into the SUPREME COURT LANDMARK CASE LAW ON CSR IN INDIA following the below cases. M.C. Mehta vs. Union of India (2001) A case on pollution in Delhi by industrial units. Although environment-focused, it underscored the corporate duty to safeguard nature a major CSR tenet today. Tata Iron & Steel Co. Ltd. vs. State of Bihar (1958 AIR 452) This early ruling stressed corporate duties beyond profit. It emphasized the need for companies to consider their environmental and community impact. CSR Perspective globally in Selected Countries Globally CSR is driven by strict environmental regulations, consumer activism, and investor pressure and is aligned with Environmental, Social, and Governance (ESG) standards Sustainable Development Goals (SDGs) Stakeholder Capitalism: Prioritizing all stakeholders, not just shareholders USA: CSR is seen as accountability for corporate actions. It requires personal and institutional transformation. Thailand: CSR is valuable only

when it translates into actual results. Philippines: Emphasizes businesses giving back to society. Conclusion – A Call for Action or a Reflective Closing As the author my take on CSR is that CSR is more than a trending term it's a transformation in corporate functioning. It has brought tangible benefits to society, businesses, and nature. Companies that genuinely adopt CSR enjoy better reputation, stakeholder trust, and are better prepared for future challenges. Corporate Social Responsibility is a pledge by businesses to act ethically while boosting the economy and enhancing life for employees, communities, and the larger society. CSR plays a significant role in shaping global development today and serves as a practical instrument for fostering sustainable growth. Corporations do not operate in isolation; they rely heavily on the support of the communities around them, which is crucial for their growth and reputation. Many businesses are actively taking steps to improve their social and environmental performance through voluntary practices such as adopting ethical codes, obtaining environmental certifications, publishing sustainability reports, conducting social audits, supporting fair trade, and initiating community-focused programs. The recent CSR framework in India should not be mistaken as the government shifting its responsibilities to private enterprises. In fact, when compared to the government's overall social sector expenditure, the expected annual CSR contribution from eligible companies under Section 135 represents only about two percent. Rather, this framework should be seen as an initiative to involve the corporate sector as a partner in advancing broader developmental goals. The autonomy granted to companies in selecting and monitoring CSR projects under the new rules is designed to enhance the effectiveness and efficiency of implementation, without conflicting with the primary aim of maximizing shareholder value. These revised CSR norms reflect a thoughtful balance between financial and social priorities, and there is hope that businesses will proactively support inclusive national development through meaningful contributions. As future leaders, it's our role to ensure CSR goes beyond compliance into real-world change.

That's how we shape not just companies, but communities and countries. Thus, the regulatory landscape acts as a compass for companies to follow best practices aligned with sustainable growth concluding that...

"CSR WAS NEVER ABOUT WRITING CHEQUES"

CORPORATE BANKRUPTCY AND ITS LEGAL IMPLICATIONS FOR DIRECTORS AND SHAREHOLDERS IN INDIA

Honey Rana

Over the past few years, India has seen a dramatic shift in its strategy for corporate bankruptcy and insolvency. With the passing of the Insolvency and Bankruptcy Code, 2016 (IBC), the nation has transitioned from a regime of disintegrated and long-winded processes to a time-bound, creditor-led one. It has, thus, introduced a new suite of legal obligations, challenges, and repercussions most especially for company directors and shareholders, who are usually the most immediately affected by corporate collapse. This article explores the concept of corporate bankruptcy within the Indian legal framework, focusing on the responsibilities and liabilities of directors and the repercussions faced by shareholders when a company enters insolvency. Understanding Corporate Bankruptcy in India Corporate bankruptcy is the judicial process triggered when a company cannot pay its debts. It is not just a condition of financial distress but a formal determination of insolvency which invokes the intervention of the court. In India, the Insolvency and Bankruptcy Code, 2016 is the single law that prescribes corporate insolvency and liquidation processes¹. The IBC brought in a new, simplified process called the Corporate Insolvency Resolution Process (CIRP), whereby the management of the debtor company is entrusted to an independent Insolvency Professional (IP)². The process is monitored by the National Company Law Tribunal (NCLT) and has to be completed within a fixed time limit of 180 days, extendable by 90 days in exceptional cases. This change of approach from a debtor-in-possession to a creditor-in-control model has also redetermined the legal dynamics for directors in charge of insolvent companies. Legal Duties and Liabilities of Directors during Insolvency The commencement of CIRP has direct legal effects on the Board of Directors. After the NCLT accepts an insolvency petition, the board's powers are suspended and will be vested in the Interim Resolution Professional

(IRP) or the Resolution Professional (RP)³. The directors have a legal duty to assist the IRP/RP in full, furnishing all documents, accounts, and information required to carry out the insolvency exercise⁴. Disobedience of this legal obligation under Section 19 of the IBC can attract penal action, such as imprisonment for a period of one year and financial penalties. Additionally, if directors have participated in transactions aimed at defrauding creditors or diverting assets, they are personally liable. Sections 43 to 66 of the IBC grant powers to the RP to file for reversal of such deals and seek directions from the NCLT to get contributions from the directors to the assets⁵ of the company of special significance is Section 66, which addresses wrongful and fraudulent trading. In case it is established that directors carried on business with an intent to defraud creditors, they can be ordered by the tribunal to make their own contributions to the liquidation estate. These provisions form a considerable shift from previous regimes in which directors were spared liability even where there was mismanagement. Directors are also subject to fiduciary obligations under the Companies Act, 2013. Section 166 states their obligation to act in good faith, in the best interests of the company, and to exercise no conflict of interest⁶. Violation of these duties during or preceding insolvency proceedings can result in accusations of misfeasance, negligence, and fraud under Sections 447 and 212, which may involve prosecution by the Serious Fraud Investigation Office (SFIO).

Disqualification of Defective Directors The IBC also disqualified some individuals from filing a resolution plan. Section 29A of the Code bars promoters and directors of the corporate debtor from taking back the company if they have played a role in their own financial stress⁷. Directors who are wilful defaulters, are engaged in fraudulent

activities, or whose accounts have been marked as non-performing assets (NPAs) for more than one year are considered ineligible. This provision has been sustained and enforced by Indian courts in various milestone cases. For example, in *Arun Kumar Jagatramka v. Jindal Steel*, the Supreme Court held that persons who are ineligible under Section 29A could not make a scheme of compromise or arrangement under liquidation either⁸. The message is loud and clear: mismanagement and misconduct will not be rewarded with a chance to take back the company. Effect on Shareholders in Bankruptcy Proceedings Shareholders, although indirectly part of the company's management, are usually among the hardest-hit when bankruptcy proceedings initiate. During CIRP, share valuation usually dips drastically, and investor faith takes a big hit. Worse still, shareholders do not have any statutory position or voting right under the CIRP. The CoC, dominated by financial institutions⁹, has the sole power to decide. When a resolution plan is sanctioned by the CoC and the NCLT, it can entail severe restructuring of the company's capital, involving its reduction, consolidation, or outright cancellation of shareholding. In most instances, existing equity shares are written down to pave the way for injection of fresh capital by new investors. A good example is Bhushan Steel's resolution when Tata Steel acquired the firm and former promoters' shares were made valueless¹⁰. Where CIRP does not work and the firm is liquidated, shareholders are at the bottom of the distribution waterfall pursuant to Section 53 of the IBC. After paying the dues of the secured creditors, workmen, employees, unsecured creditors, and government dues, if there remains anything at all, the same is given to the equity shareholders. In reality, this translates into the shareholders recovering nothing.

Liquidation and Its Legal Consequences If no feasible plan of resolution is authorized within the required time limit, the company is directed to be wound up. The liquidator so appointed oversees the assets and takes on the responsibility of their sale in order to settle debts. This leads to the legal dissolution of the company. Liquidation is associated with ongoing observation of the directors' behavior.

The IBC introduces provisions in sections 45 to 51 to reverse preferential, under-value, or extortionate credit transactions which have occurred prior to the insolvency commencement date. Directors can further be prosecuted if fraudulent activity is found during liquidation¹¹. Further, the liability under Section 66 still exists, and directors can still be required to contribute personally to the liquidation estate. Judicial Support and Landmark Rulings Indian courts have continued to reaffirm directors' accountability and shareholders' limited rights upon bankruptcy. In *Swiss Ribbons Pvt. Ltd. v. Union of India*¹², the Supreme Court ruled that the constitutional validity of the IBC, including the suspension of the board and ranking of creditors' commercial wisdom, was upheld. The court acknowledged the extreme nature of the legislation but rationalized its need to salvage the economy and promote responsible corporate governance. In the *Amrapali and Jaypee Infratech* insolvency proceedings, the courts have an empathetic approach towards homebuyers, identifying them as financial creditors, but continue to hold the view that resolution choices are with the CoC and not with the board or shareholders¹³. These judgments show how fine a balance between responsibility, efficiency, and fairness the IBC strives to strike. Comparative Perspective: Lessons from Global Jurisdictions Internationally, laws relating to corporate bankruptcy impose important responsibilities on directors. In the United Kingdom, the Insolvency Act, 1986¹⁴ requires directors to transfer their fiduciary responsibilities from shareholders to creditors when insolvency can be anticipated. Directors are held accountable for wrongful trading if they carry on business without a reasonable expectation of preventing liquidation. In the U.S., Chapter 11 of the Bankruptcy Code¹⁵ permits the existing management to continue operations under court protection, but directors will have to act in the best interest of the creditors when insolvency hits. Although India's method under the IBC is more drastic in suspending the board's powers, it also mirrors the international focus on creditor

rights and the responsibility of the directors.

Scope for Reform and Way Forward Though the IBC has achieved the feat of minimizing the timelines and uncertainty of insolvency proceedings, there are aspects that need consideration. Minority and retail investors usually suffer the most but enjoy the least control in the process. Provisions from the law that provide greater transparency of disclosure and fair treatment could instil greater confidence in the system. In addition, company directors, particularly in mid-sized and small companies, are frequently not aware of their legal responsibilities when the company is in financial trouble. Compulsory training and improved communication of legal obligations can mitigate avoidable violations. In addition, there is a requirement to enhance the institutional efficiency of the NCLT to ensure that insolvency cases are disposed of within the statute-driven timelines. Extended CIRP frustrates the very purpose of the IBC and overloads the stakeholders.

Conclusion

Corporate insolvency is a seriously far-reaching occurrence, both legally and economically. It is a period of increased scrutiny for directors, requiring strict compliance with fiduciary and statutory obligations. Non-compliance can render them personally liable, disqualified, and even criminally liable. For the shareholders, bankruptcy usually entails loss of funds and dilution or destruction of rights of ownership. The Insolvency and Bankruptcy Code, 2016 has established a strong legal framework for corporate insolvency resolution in India. Success, however, relies on effective governance, efficient institutions, and ongoing efforts to balance all stakeholders' interests. With India's corporate universe evolving by the day, so must the nation's legal and regulatory environments upholding the twin objectives of accountability and resurrection with fairness and efficiency.

THE IMPACT OF INDIA'S ANTI TRUST AND COMPETITION LAWS ON CORPORATION

Jayshree Khichi

"Competition is always a good thing. It forces us to do our best. A monopoly renders people complacent and satisfy with mediocrity."! I believe you are convinced with this quote like I do, and this is how competition law impacts on corporations.

Let's dive into the history of Anti-trust laws in India, the Competition Act, 2002 is not the first anti-trust law in India. India has its own version of competition law for 56 years now and Monopolies and Restrictive Trade Practices Act, 1969(MRTP Act) was the first competition law enacted in 1969. The principal objective of the act was to prevent concentration of economic power to the common detriment and thus prohibited monopolistic and restrictive trade practices.

Having MRTP Act what was the need for Competition Act, 2002? Post economic liberalization in 1991, it was essential to have in place a competition law regime which is consistent with current economic position of the country and international practices.

Consequently, in 2002, the Competition Act, 2002 was enacted to promote and sustain competition in the market. The competition act deals with three kinds of practices which are treated as anticompetitive and are prohibited - anti-competition agreements, abuse of dominant position and combinations. The provisions relating to prohibition of anti-competition agreements and abuse of dominant position came into force on May 20, 2009, and the merger regulation provisions were enforced from June 1, 2011.

Competition Commission of India (CCI), established under Competition Act, 2002, is the apex body responsible for promoting and sustaining competition in the Indian market.

CCI is solely responsible for enforcement and administration of Competition Act. CCI comprises of a Competition Commission of India chairperson and not less than two but not more than six other members,

who shall be appointed by the Central Government. CCI may initiate any inquiry in relation to an anti-competitive agreement or abuse of dominant position either on its own, based on information in its possession, or on receipt of information from any authority. Any person, consumer or consumers association can file a complaint against any anti-competitive agreement and abuse of dominant position. In case of combinations, the CCI may initiate any inquiry either on its own or based on application made by the corporation proposing to enter into combination. CCI have power of imposing fine if corporations abuse their dominant position, enters in anti-competitive agreement or enter into unfair combination. It also has power to order such other remedies to restore fair competition in the market. An order passed by CCI can be appealed before National Company Law Appellate Tribunal (NCLAT), which comprises of a president and such number of judicial and technical members as Central Government may deem fit. Such appeal must be made within 45 days of receipt of the order passed by the CCI. An appeal against the order of NCLAT could be filed before Supreme Court within 60 days from the date of receipt of the order. 2

A corporation shall ensure that its practices comply with the provisions of competition law to avoid imposition of sanctions including monetary penalties. Key compliances under competition law includes:

- * Avoid entering in anti-competition agreements: Competition law prohibits entering into any agreement which is likely to cause an appreciable adverse effect on competition. Thus, a corporation must not enter into any agreement to fix price, allocate market, rig bids. It shall also avoid entering into anti-competitive agreement along its supply chain like exclusive supply agreement,

tie-in arrangement.

* **Avoid monopolistic practices:** Competition law prohibits corporations from abusing its dominant position in the relevant market. Thus, a corporation shall avoid practices that could be seen as an attempt to gain monopoly in the relevant market like imposing unfair conditions or price, predatory price, limiting production or technical development, applying dissimilar conditions to similar transactions,

* **Fair mergers and acquisitions:** CCI mandates approval for combination if threshold in terms of assets or turnover either in India or India & outside India of combining parties are met. CCI assesses whether the proposed combination is likely to have an appreciable adverse effect on competition or not. Thus, corporations must seek approval from CCI for a combination which meets the thresholds. Moreover, it helps CCI ensure that no merger and acquisition activity impede competition in the market.

A corporation must avoid non-compliance with competition laws as Competition Act prescribes heavy penalties for violation of provisions. In case of anti-competitive agreements or abuse of dominant position CCI may order to discontinue such agreement and such agreements which is in contravention of section 3 shall not be reentered or abuse of dominant position in contravention of section 4 shall be discontinued, such order is commonly known as 'cease & desist' order. CCI may impose penalty not exceeding ten percent of average turnover of last three preceding financial years upon each of person or enterprise which are parties to such agreement in contravention of section 3 or are abusing dominant position within the meaning of section 4. In case of any agreement which is prohibited by section 3 entered into by any cartel CCI may impose higher of amount equal to three times of its profits for each year of the continuance of such agreement or ten percent of turnover for each year of continuance of agreement. CCI may direct to modify such agreement to extent which are found to be anti-competitive. "CCI through its orders has set out a strong message to the corporations that it will not hesitate to use its fining powers available under Competition Act if the gravity and nature of the non-compliance so demands.

" Violation of provisions of competition law can lead to initiation of investigation, civil penalties, fines, criminal prosecution & imprisonment which damages the reputation of the corporation and thus, loss of customers trust.' Few cases which depict the consequences of non-compliance with competition law are as follows:

Google Inc. & Ors V. Competition Commission of India (2023.): One of the most notable anti-trust cases involves Google LLC and Google India Private Limited where Competition Commission of India (CCI) had imposed Rs. 1337.76

crore penalty on Google for abuse of its dominant position in contravention of Section 4 of the Competition Act. CCI noted that Google's dominant position in the market was being used to prevent competing search engines from accessing the market.

Meta (2021): Another anti-trust case involves Meta where CCI imposed Rs.

00 Meta

213.14 crore penalty on Meta for anti-competitive practices related to WhatsApp's 2021 privacy policy update, which mandated data sharing with other Meta companies. CCI noted that WhatsApp's actions, including the mandatory data sharing, violated the Competition Act by imposing unfair conditions and hindering market rivals. CCI concluded that Meta has dominant position in messaging and display advertising and thus policy update was unfair.

Further, robust compliance practices of a corporation shall ensure compliance with competition law and avoid any implications due to non-compliance of competition law. To ensure compliance, a corporation should adopt a Competition Compliance Program (CCP) and inculcate compliance culture and ethics in its practices:

•Firstly, corporations must have internal policies put in place which acts as guideline on what is anti-competitive practices and what is not anti-competitive practices. Thus, these policies should guide acts of a corporation including its employees and management to adhere with competition law.

* Corporations shall give regular training to its employees and senior management to educate them on competition law, good compliance practices and consequences of non-compliance with competition laws.

- Corporations must conduct regular audit to monitor implementation of policies and thus detect and address violations of competition law, if any.

- Corporation shall conduct business risk assessment to identify any potential risks associated with the conduct of business and address potential risks of anti-competitive behavior through application of various mitigation strategies.

- Corporation must take consultation of legal counsel who is expert in the field of competition law before entering into any agreement or combination.

Together, let's explore how competition law had impacted different sectors of Indian Economy:

Telecommunication sector: Corporations in telecommunication sector often enjoys a dominant position in their relevant market, which

leads to these corporations behaving monopolistic which can adversely affect competition, inflate prices and limit innovations. Therefore, Competition Law ensures that these corporations do not impede competition and protects consumers from unfair trade practices? E-Commerce: In e-commerce market where the pace of innovation is rapid and market dynamics are constantly evolving. Anti-competitive practices like price fixing, predatory pricing can impede competition. Therefore, competition law plays vital role in preventing such practices and sustain competition in the market. 8

InLight to these findings, the anti-trust laws also known as competition laws impacts corporations in a way that it curbs anti-competitive practices in all the ways - prohibits anti-competition agreements, abuse of dominant position and unfair mergers and acquisitions. Thus, competition law promotes and sustains fair competition in the market which encourages corporations to innovate to outperform its competitors and attract customers, hence, benefitting consumers by providing quality products competing prices and fosters economic growth.

CORPORATE CRIMINAL LIABILITY- THE NEED FOR REFORMS IN INDIA'S LEGAL FRAMEWORK

Karnika Mishra

Indian economy is one of the fastest growing economies in the world. One pillar that uplift the growth of the any economy is corporation. Corporations play a vital role in the economy, by contributing to industrial growth, financial stability, and the overall economic development of a nation. As corporations contributes in the growth of nation it can be held liable for a wide range of offences, including fraud, environment violations, workplace safety breaches and more. The corporations have turned out to be dangerous criminals. As a principle, people only submit the offence. The exemption to this standard is that the corporate bodies can be held accountable for the corporate violation. "The corporate bodies are more corrupt and profligate than individuals, because that have more power to do mischief and are less amenable to disgrace or punishment. They neither feel shame, remorse, gratitude nor goodwill." ~Hazlitt. Section 11 of Indian Penal Code, 1860 define person. It reads "the word person includes any Company or Association or a body of persons, whether incorporated or not." Further section 2 of the Code provides that "Every person shall be liable to punishment under this code." Thus, section 2 of the code without any exception to body corporate, provides punishment of every person which obviously includes a Company. Therefore, by reading of these two provisions concept of corporate criminal liability can be derived, though it is not the sole legislation which provides for the punishment of corporate body, Companies act, 2013, Income Act, etc. Despite these, the legal framework has limitations. Many offences under IPC and other statutes require mens rea (guilty minds), which is hard to attribute to a non- human entity. Previously the trend was such that the company cannot be tried for offences where mens rea was not an essential and it was accepted that it cannot be tried for offences where mens rea is required.1 "Directing mind and will" this doctrine focuses on identifying individuals, often high- ranking

officers or executives, who serve as the directing minds and decision makers to the corporation, rendering the company criminally liable if these directly related to the corporation's business activities. The practical application of the "directing mind and will" doctrine aids prosecutors in concentrating efforts on prosecuting individuals directly involved in corporate misconduct, leading to more effective enforcement of corporate criminal laws. Company can be categorised as corporate personality i.e. a corporation has its own legal identity, which is established by law. As per companies act 2013, a company is distinct from its members, shielding them from personal liability. A corporation owns assets independently, not subject to shareholder claims. And can initiate legal action independently and be sued, distinct from their members. The need for continuous monitoring and adaptation of corporate criminal liability laws in India is driven by several crucial factors.

Case laws and judgements • 2G Spectrum Case: The 2G Spectrum case was about how mobile network licenses were given out by the government in 2008 at very low prices, without prior auction. Various telecommunication companies had faced a huge loss and caused a huge financial loss to the country as well. Several big telecom companies and their top officials were involved and accused of cheating, bribery, and corruption. The case became important because it showed how companies and their leaders can be involved in serious crimes. It highlighted the need to hold not just individuals, but also corporate bodies responsible when such crimes happen.

• Satyam Scam (2009) Implication: This case exposed one of the most significant corporate frauds in India's history, leading to the conviction of top executives at Satyam

computer services. It underscored the importance of corporate governance, transparency, and ethical business practices in the corporate and the prevention of financial sector. Companies were reminded of the internal controls and prevention of financial fraud.

- **SEBI v. Sahara (2012):** Implication: The judgment of in this case established important principles regarding the issuance of debentures and the regulatory authority of SEBI. It emphasized the significance of complying with securities laws, including disclosure requirements and reinforcement SEBI's role in protecting investor's interest.
- **Zee News Extortion Case (2012):** This case highlighted the potential criminal liability of corporate entities in cases extortion and even within their organisations.
- **Iridium India Telecom Ltd. Vs. Motorola Inc.** Iridium India Telecom Ltd. Accused Motorola Inc. and its executives of misleading investors by giving false financial data to raise funds for a satellite phone venture that later failed. The key legal issue was whether a company, as a legal entity, can be held criminally liable for such acts. The Supreme Court of India ruled that a company can be prosecuted for criminal offences like cheating and fraud. While it cannot be jailed, it can be fined and held accountable under criminal law, just like an individual.

Statutory provisions under Indian law:

1. Indian penal code (IPC) 1860: acts but Companies act 2013 clearly specifies that companies can be prosecuted and punished for criminal acts even with mens rea. Section 447 provides a broad and inclusive definition of fraud, covering intent to deceive, gain undue advantage, or cause loss. Section 447 also extends the liability to company, officers and individuals.
3. Prevention of Corruption Act, 1988 (amended in 2018) Section 9: Corporate entities can be prosecuted for bribery-related offences.
4. Environment protection act, 1986: Companies and individuals shall be personally liable for the acts for environmental offences. There is global trend towards holding corporations criminally accountable. While some countries rely on traditional doctrines like identification or vicarious liability others have moved towards corporate culture or strict liability models. Attribution of Liability Corporate liability is usually attributed through

1. Doctrine of identification: 'What the top officer does with Intent, the company is deemed to have done intentionally.' It is a legal principle that attributes the acts and mental state of senior individuals to corporation itself. These individuals are considered the 'directing mind and will' of the company, and therefore, their actions are treated as those of the company.

2. Vicarious liability: Under labour laws, tax laws and various other laws company is held liable for the acts of employees under certain statutes. While Indian criminal law does not favour vicarious liability, it is statutory required under various Indian laws like

- Companies act 2013
 - Environment protection act, 2000
 - Food safety and standards act, 2006.
- Vicarious liability plays a critical role in ensuring that companies cannot escape the punishment for its acts by blaming its employees and officers especially in sectors like finance, environment, and cyber law, where regulatory compliance is vital.
- 3. Separate legal identity** This principle is stated under Companies act, 2013. A registered company under Indian law is a distinct person in the eyes of law which is being treated separately from its shareholders, directors and employees. In the case of *Salmon v. Salmon and co.* (1857) the facts of the case states that when the company fails, other creditors argued that Salmon should be personally liable. Whereas the House of Lords held that the company was separate person, and salmon was not personally liable for the company's debts.

Conclusion: India's legal system now recognises that corporations are not above the laws. The evolution of corporate criminal liability in India marks a significant steps towards ensuring that companies, like individuals are held accountable for unlawful conduct. Modern Indian Law, particularly after enactment of Companies Act 2013, has clearly specifies that a company can possess a criminal mind through its directing individuals and should not be allowed to hide behind the corporate veil of corporate personality.

In essence, corporate criminal liability is no longer a theoretical debate but a practical necessity in safeguarding economic integrity, investor confidence, and public trust. Indian courts guided by global jurisprudence, now acknowledge that a company through a legal fiction can act through “directing mind and will” – a principle firmly established in landmark UK case *Tesco v. Nattrass* (1972) and adopted in India through *Iridium India Telecom Ltd. v. Motorola Inc.* (2011)². The law must continue to evolve to meet the complexities of modern corporate misconduct, while ensuring that responsibility does not fall solely on paper entities, but also on individuals who misuse them. Corporations lead the economy of the country and leader carries several big powers and authorities, and it is important for the nation to grow wisely and rapidly laws for corporations must be strict and rigid. Not only individuals but corporations must also be penalised and punished. And as a growing nation Indian laws does provide the same. The Law must evolve to ensure both prevention and punishment.

THE ROLE OF CORPORATE CHARTERS IN INFLUENCING CORPORATE CONDUCT IN INDIA

Khushi Jain

Introduction A company is an artificial person created by law, governed by its charter. Sounds dry right? In reality, these charters determine boardroom showdowns, protect founders, and shape corporate ethics. That's the thought that came out of my mind when I see the title. Corporate charters may not trend on your feed, but they literally decide what a company can do, who controls it, and what happens when things go south to north. From Mukesh Ambani to your friendly neighborhood startup, every Indian company signs one. By the time you finish this read, you'll not only understand how corporate charters silently influence everything from ethics to fraud but you'll also have some serious boardroom insights to casually drop in your next heated LinkedIn debate or classroom discussion. The Corporate Charters also known as the Memorandum of Association (MOA) and Article of association (AOA) are the foundational constitutional backbone of a company. These legal documents lay down the core purpose, powers, and governance parameters of the company, serving as a binding contract between shareholders and the company itself. In common-law jurisdictions like India, the corporate charter is central to corporate conduct, providing the blueprint for what a company may (or must not) do. Thus, my topic will address an evolving landscape where charters are not just legal papers but dynamic tools influencing governance, compliance, and reputation. A Brief Historical Context: From Colonial Origins to CSR Mandates The formal legal acknowledgment of corporate charters in India began with the Joint Stock Companies Act of 1857, which marked the introduction of the limited liability principle. This prompted the need of detailed charter documents, including the Memorandum and Articles of Association, to define and constrain corporate activity. The Companies Act, 1956 made these documents mandatory for registration, institutionalizing their role in governance. And at the end,

The Companies Act, 2013 elevated the role of charter documents by embedding mandatory disclosures, reporting's, corporate social responsibility (CSR) obligations, and board structures into the regulatory framework in turning these charters into enforceable instruments of governance.

Decoding the MOA: Setting the Boundaries A Memorandum of Association (MOA) as defined under section 4 companies act, 2013 is a document containing details of the company's constitution, objects and the scope of its operations beyond which it's action cannot go. It also lays down the objectives for which it is formed, determine the scope of its authority and its relationship with the outside world. The creation of MOA is the first step towards company registration. It is to be submitted to the Registrar of Companies. It is a public document. At the time of incorporating a company, its members are required to sign and agree to the Memorandum of Association (MOA). Subscribing to an MOA means to put one's mark or signature on the document as attestation or approval of its contents. This principle was clearly established in the landmark case *Ashbury Railway Carriage & Iron Co. Ltd. v. Riche* (1875)¹, where Lord Cairns stated that the memorandum of association serves as the company's charter, outlining the scope and limits of its powers. It contains the both which is affirmative and that which is negative. It states affirmatively the ambit and extent of vitality and powers which by law are given to the corporation, and it states negatively, if it is necessary to state, that nothing can be done beyond that ambit" *Egyptian Salt and Soda Co. Ltd. v. Port Said Salt Association Ltd.* (1931)². Memorandum of Association (MOA) must include the following five essential clauses: Name clause Registered office clause Object clause Liability clause ☐ Capital clause

Why MOA Matters?

The Memorandum of Association (MOA) acts as the foundational charter of a company, outlining its legal powers and establishing the limits within which it can operate. Any activity undertaken outside the scope of the object clause is deemed ultra vires and therefore void. As a public document it's functions as formal notice to third parties, disclosing the company's objectives and operational limitations. It is binding on directors and shareholders,

who are legally obligated to operate within its framework. Additionally, the MOA provides the foundational basis upon which the Articles of Association (AOA) are drafted, ensuring consistency in corporate structure and governance. Amendments to the MOA particularly changes to the object clause require a special resolution in accordance with Section 13 of the Companies Act, 2013, underscoring its rigid and authoritative nature. Demystifying the AOA: Rules of Engagement The Articles of Association (AOA) governs a company's internal affairs. It details the rules for decision-making, director conduct, shareholder rights, and company operations. Under Section 5 of the Companies Act, 2013, the AOA is a statutory contract binding the company and its members. Articles of association lays out how tasks are to be accomplished within the organization, including the process for appointing directors and the handling of financial records. This is evident from the fact that the Articles of Association control the company's internal management by defining the roles and powers of its officers and by creating a contractual relationship between the company and its members, as well as among the members themselves. This contract governs the typical rights and duties tied to company membership, as affirmed in *Naresh Chandra Sanyal v. The Calcutta Stock Exchange Association Ltd.*, AIR 1971 SC 422, (1971)3. The Articles of Association (AOA) operate under the authority of the Memorandum of Association (MOA) and must align with it. It is mandatory for every company to have an AOA, as it is essential in outlining the company's internal structure, including roles, responsibilities, and management procedures. Its provisions must also comply with the MOA and the Companies Act, 2013. It held that

the memorandum contains the fundamental conditions for incorporation, benefiting creditors, the public, and shareholders alike. The articles serve only as internal regulations. Crucially, when there is a conflict, the memorandum prevails, and its provisions cannot be modified by referring to the articles. Contents of AOA

- Details regarding the share capital

- Details of director's qualification, appointment, powers, remuneration, duties etc.
- Rules regarding company dividends and reserves Details regarding company accounts and audit
- Provisions relating to the company's borrowing powers

- Provisions relating to conducting meetings

Process of winding up of the company The Effect of the Memorandum of Association The Memorandum of Association (MOA) has a profound impact on both the company and its stakeholders. As the company's charter, it defines the legal powers and limitations of the organization, making any act outside its stated objectives ultra vires and thus void. The Memorandum of Association (MOA) firmly commits the company to the objectives it specifies, and any modification to its object clause necessitates passing a special resolution and obtaining approval from the Registrar of Companies, as per Section 13 of the Companies Act, 2013. Furthermore, it outlines the rights of shareholders and the authority granted to directors, holding them accountable for actions taken beyond its provisions. Lastly, the MOA forms the structural foundation for the Articles of Association (AOA), clearly demarcating the operational boundaries within which the company must function. The Effect of the Articles of Association The Articles of Association (AOA) play a critical role in shaping a company's internal governance and daily operations. Legally binding on both the company and its members, the AOA establishes a contractual relationship among shareholders and between shareholders and the company, making any breach subject to legal consequences. It serves as a comprehensive guide for internal procedures, detailing how decisions are made, meetings conducted, and disputes resolved. While it can be

amended through a special resolution under Section 14 of the Companies Act, 2013, such changes must not conflict with the Act or the MOA. The AOA also defines the rights of shareholders such as voting rights, dividend entitlements, and access to company information while laying out the duties and responsibilities of directors to ensure transparency and accountability. Notably, the Articles of Association (AOA) operate in conjunction with the Memorandum of Association (MOA) and the Companies Act, with statutory provisions prevailing in the event of any inconsistency. Real-World Impact: Case Study on Control & Governance Founders Losing Control: What Went Wrong? Many founders believe majority shareholding equates to control. However, a real-world example proves otherwise. In 2019, Rajat, a founder from Delhi, co-launched a logistics tech startup with two partners. He held 60% equity and led the company through early growth to ₹5 crore in revenue. Unbeknownst to him, the standard Articles of Association signed at incorporation included a clause allowing directors to be replaced by a simple board majority. In 2022, after a new investor acquired a 25% stake and aligned with the other co-founders, Rajat was legally ousted from his own company. Despite holding the majority of shares, his MOA and AOA lacked tailored protections. This case illustrates a crucial truth that equity does not guarantee control. The real power lies in governance documents like the MOA and AOA, which define voting rights, board powers, and founder protections. One poorly drafted clause can override even a dominant equity position. One stop solution would be Customization, well-drafted charters that reflect the actual balance of control intended by the founders and investors. Integration of Academic Insight: Legal Significance of the AOA in Governance Under Sections 5 and 10 of the Companies Act, 2013, the AOA functions as a statutory contract that governs powers of directors, conduct of meetings, share transfers, and rights of shareholders. The Supreme Court in *V.B. Rangaraj v. V.B. Gopalakrishnan*⁵ reaffirmed that any shareholder agreement that conflicts with the AOA is unenforceable unless formally included. Under Section 14, companies may amend their AOA, but only if done bona fide and within legal limits. In *Shanti Prasad Jain v. Kalinga Tubes Ltd*⁶, the Court clarified that such amendments must not marginalize minority interests or be used as instruments of oppression. The Tata-Mistry case⁷ stands as a prominent and influential case in the landscape of Indian corporate law. The dispute

began in 2016, when Cyrus Mistry was unexpectedly removed from his position as Executive Chairman of Tata Sons. The Shapoorji Pallonji Group.

Aftershocks of the Case

This case reaffirmed the quasi-constitutional status of the AOA and provided key takeaways for corporate governance in India. It emphasized the importance of precision in drafting AOAs, as vague provisions can invite complex litigation. And also clarified that shareholder agreements must be formally included in the AOA to be enforceable against the company. Finally, the Court's deference to board autonomy underscored that when companies operate within the boundaries of their constitutional documents and the law, judicial intervention will be minimal.

Conclusion

and Policy Recommendations Corporate charters are not mere formalities but enforceable instruments that shape a company's governance, accountability, and legal identity. From landmark cases like *Ashbury Railway* to *Tata Mistry*, Indian jurisprudence has consistently upheld their authority as quasi-constitutional documents. Real-life examples, such as founders losing control due to standard templates, further underscore their practical impact on corporate conduct. To ensure corporate charters remain relevant and effective within India's evolving business landscape, several focused policy interventions are essential. Additionally, making charter governance training compulsory for all newly appointed directors would ensure that those in key decision-making roles understand the scope and limitations set by these documents. Lastly, improving public access to MOA and AOA through a more transparent and user-friendly MCA portal would enhance stakeholder trust and regulatory oversight. A well-drafted and periodically reviewed corporate charter is not just a compliance tool it is a cornerstone of responsible and strategic corporate governance.

CORPORATE LIABILITY FOR ENVIRONMENTAL DAMAGE IN INDIA

M.K. Gandhi

Earth provides enough to satisfy every man's need, but not every man's greed.

For all the readers reading this article have you ever heard this saying from your grandparents about how clean the water or air used to be during their generation? I bet we've all shared similar experiences and are tired of hearing the same old sayings but, if we do really sit back and think we can see how energetic and strong our grandparents are even if they are in their old age. Have you ever wondered what might be the reason for their strong immunity and energy at this age? That's right the clean environment that they've grown up in. 's rewind back to the times of 1990s when India was under the leadership of prime minister P.V. Narasimha Rao and the concept of LPG was introduced to open up Indian economy to global markets. The year of 1991 when new industrial policies were introduced which is also known as industrialisation. The GDP growth rate of India during 1992-2001 was as high as 6.5% and India attained its status as one of the ten fastest growing economies in the world.¹ Industrialisation had brought various benefits towards the society such as • Job creation for numerous unemployed sections of society • Technological upgradation with introduction of new machines in the country • Growth in the economic status of the country. Rapid development can be a boon as well as a curse for a country. As many advantages that have emerged with rapid industrialisation and entrance of new corporates in India, it has also been followed by numerous impacts in the society and the most negative impact was upon the environment. 51% of air pollution in India is due to industries. Indians are exposed to 25 micrograms per cubic metre above World Health Organisations limit of 10 micrograms per cubic metre of particulate matter.² For a while let's forget about the statistics issued by various concerns and look around the area that we are currently living in. In most of the metropolitan

CORPORATE LIABILITY FOR ENVIRONMENTAL

DAMAGE IN INDIA cities an individual can only breathe fresh air during the dawn and as soon as the office hours begins, we breathe the same polluted air. We cannot determine one sole reason for environmental degradation but as stated above the major cause is due to industrial pollution. Industries have not only led to air pollution but also have caused damage to land, water and soil. The thing that persons engaged in industrial operations often forget is that we are a part of the environment and not the other side around. As the environment degrades it will come at a cost and that cost is human health. Air pollution in India causes two million premature deaths annually and respiratory diseases in urban populations. Cities such as Bengaluru have seen a significant rise in the incidence of childhood asthma alongside increases in pollution over the decades since the late 1970s. In Delhi pollution reduces life expectancy by up to 12 years. Water pollution causes waterborne diseases to develop in about 37.7 million people in the country yearly.³ The pollutants emitted from industrial effluents causes skin borne diseases and also severe allergy reactions. As per the report of world air quality report 2024, 13 Indian cities are among the 20 most polluted countries. We all might've thought Delhi would be the most polluted city, right? But to everyone's shock Delhi wasn't on number one but it is Buxar, a small industrial town located in Meghalaya. The high level of pollution is due to industrialization with establishment of factories of iron, steel and cement factories. Now the real question that arises are what industries do really cause this pollution and what are the initiatives taken by companies as well as the government? Both local and international brands are responsible for the plastic waste pollution in the country. PepsiCo India topped the multinational

polluters list, followed by Perfetti van Melle and Hindustan Unilever, an Indian subsidiary of Unilever, as second and third, respectively. Other multinational brands in the top 10 list of polluters are Coca-Cola, Mondelez, Nestle, Procter & Gamble, McDonald's, and Ferrero. Meanwhile, Amul, Britannia, ITC, Parle emerged as the top corporate polluters amongst the national brands.⁴ The most beloved soft drink brand coca cola is believed to cause groundwater depletion and pollution in India. The villages where coca cola plants are established there were numerous compliant received by villagers about contaminated water and loss of fertile land which leads to agricultural loss. In one of the most recent cases the Adani acquired Ambuja cements is facing legal issues over non-compliance with pollution control measures across various states such as Gujarat, Telangana. The company's alleged failure to adhere to environmental regulations has drawn criticism and raising questions about corporate accountability and environmental governance in India. Not only chemical industries but fashion brands such as H&M, Zara, Marks & Spencer were also found in several environmental damage from untreated contaminated waste causing water and land pollution. While after catching the glimpse of the above given cases we can draw a conclusion that industries cause major harm to environment which would cause a huge impact in living a comfortable life for future generations. The investors have also been looking over the sustainability and their responsibility towards social activities before investing in a company. The companies have also started to pay attention towards their corporate actions and integrating ESG i.e., environment, social and governance issues in their business plans, vision and strategies. The government have introduced various compliances under The Environment (Protection) Act, 1986; Forest (Conservation) Act, 1980; Wildlife (Protection) Act, 1972; the Water (Prevention and Control of Pollution) Act, 1974; and the Air (Prevention and Control of Pollution) Act, 1981. The industries established operates under two permit system which are consent to establish (CTO) and consent to operate (CTO). The Central Pollution Control Board (CPCB) serves as the central regulatory authority to formulate

standards and enforce regulations related to industrial pollution, waste management, and emissions nationwide. State Pollution Control Boards (SPCBs) or pollution control committees in union territories. Further, National Green Tribunal were established to resolve adjudications. Various penalties apply for non-compliance. Failure to obtain CTO or CTE may result in imprisonment and fines and penalties under the NGT Act are higher. In May 2021, the Securities and Exchange Board of India (SEBI) introduced the Business Responsibility and Sustainability Report (BRSR), replacing the earlier Business Responsibility Report (BRR). The BRSR mandates reporting on environmental, social, and corporate governance (ESG) aspects, requiring the top listed entities to disclose their performance against the nine principles of the National Guidelines on Responsible Business Conduct (NGBRCs). Prime Minister Narendra Modi announced a net zero by 2070 target at COP26 in 2021. India submitted its first Long-term Strategy for Low Carbon Development (LT-LEDS) the following year at COP27. India outlines sector-specific action areas, targeting the power, industry, transport, building, and urban sectors Now moving forward and let's look at the initiatives taken by various companies: 1.TATA: India's leading and most diverse conglomerate – Tata has a presence in a range of industries and many of them have carbon-emitting plants. Tata group is now poised to embrace the future of the planet with Aalingana. It has been launched with sustainability commitments from seven companies – Tata Steel, Tata Power, Tata Motors, Jaguar Land Rover, Tata Chemicals, Tata Consultancy Services and Tata Consumer Products. It commits by 2030 25% reduction in absolute carbon emissions and by 2045 Net zero emissions across the group. For the year 2025 it undertakes to Invest in Nature-Based Solutions projects in India.2.MAHINDRA: Mahindra is one of the worlds largest tractor and utility vehicle manufacturer in India, as engaged in manufacturing it is more prone towards causing environmental disruptions. However, the company have undertaken several

commitments and projects such as, it plans targeting carbon neutrality by 2040 and to enhance its renewable energy portfolio. The company is committed to 100% Renewable Electricity by 2030. The share of renewable electricity to total electricity at a group level stands at 26 % as of FY23. It had also launched Project Hariyali by setting an annual target of planting one million trees across all Mahindra location, in the 2022-2023 fiscal year, Mahindra Group planted 2.21 million trees. Project Hariyali's future plans involve planting five million trees by 2026.

3.RELIANCE: Reliance is the largest public company in India by market capitalization and revenue. It is India's largest private tax payer and largest exporter, accounting for 7% of India's total merchandise exports. The company have committed to embracing new technologies to convert our CO₂ into useful products and chemicals. It already made substantial progress on photosynthetic biological pathways to convert CO₂ emissions at Jamnagar into high-value protein. Through reliance foundation it has also enacted several CSR initiatives for reducing carbon print and impact on bio diversity.

4.VEDANTA: Vendanta is a a natural resources and technology conglomerate with a diverse portfolio including oil & gas, iron ore, steel, copper, aluminium, power, semiconductor, and glass businesses. The company's main objective is to create a sustainable environment and provide a long-term value creation for its shareholders. For this purpose, the company have undertaken various actions and processes. The company is committed to committed to reduce our GHG emissions intensity by 20% by 2025 and to substantially de-carbonise by 2050. It have also achieved up to 39% of tailings utilisation, continual reduction of cement utilisation in the mix and 14% and 37% reduction in specific water consumption. It have launched a policy of "zero waste, zero discharge" and is working progressively to align it with its business operations

5.DABUR: Dabur is India's first plastic waste positive company, the company have collected processed and recycled more plastic waste than it sells in its product packaging in a year. It has collected, processed and recycled 35,000 MT of post-consumer plastic waste from all over India in the 2022-23 financial year.

The company is also committed in promoting circularity in value chain to reduce its carbon footprint and achieve net zero in entire value chain by 2045. It also runs 'Save The Environment' campaign in several states to promote use of cotton carry bags, besides several capacity building programmes for waste collectors across the country. Dabur has also put in place a robust audit mechanism to ensure complete transparency and compliance to the state and central regulations and guidelines on Plastic Waste Management.

⁹ The net-zero announcements and voluntary pledges by the Indian companies to move towards carbon neutrality can go a long way to inspire other smaller businesses and individuals in society. "Environment is no one's property to destroy; it's everyone's responsibility to protect" ~Mohit Agadi

We have seen this since generations the companies provide what the stakeholders demand from them. We as being a part of the stakeholders shall not only look into the profits they generate but also the part, they play for making the environment better that we live in. By being a responsible investor, we can also play an integral part by expecting sustainability from business operations and the company shall endeavour to integrate the expectations of its stakeholders in its operations and value chain. Corporates play a huge rule in the society and are one of the root causes of environmental disruption therefore they shall they shall act pro-actively in addressing these issues. To end my article, I would like to conclude that corporates and industries are built on the base of the society which provide them land, water, raw material and other sources which runs their business. Henceforth, it shall be their responsibility to give it back to the society of what it has depleted from. There can't be a healthy economy in a degraded environment. To create a strong business first it needs to strengthen the roots on which the company have established itself. By Krishi Vijay Vargiya

THE LEGAL IMPLICATIONS OF EMPLOYEE LAYOFFS AND RETRENCHMENT IN A CORPORATION

Mahi Chordiya

INTRODUCTION In what manner a company hires, onboards, manages, terminates, and lays off its employees is very elemental to its success. These factors are very essential, and hence the most successful corporations use data like 'Turnover ratio' or 'Attrition rate' in order to check their excellence. Corporations also need to check the impact of layoffs and retrenchments, as they might have a detrimental effect and be an obstacle to the success of the corporations. A 'retrenchment' as per Section 2 (oo) of the Industrial Disputes Act 1947 means to let go of an employee for reasons other than as a punishment for disciplinary actions. However, it doesn't include voluntary retirement. When an employee is let go, the employer must give them compensation equivalent to 15 days' average wages for each year they've continuously worked. To know about the legal implications of layoffs and retrenchments is extremely essential for both employees and employers because it ensures good governance, proper compliance, helps in protecting rights, promoting fair employment practices, ethical standards, and mitigating legal risk. Failure in navigating these legal implications under Indian Labour Laws may lead to circumstances like fines, damage to the reputation of the corporation, reinstatement orders, and legal claims.

II. Legal Framework Governing Layoffs and Retrenchment The legal frameworks that govern layoff and retrenchments are mainly molded by various important legislations such as the Industrial Disputes Act, 1947, state-specific Shops and Establishments Acts, and the Trade Unions Act, 1926. These laws harmonize the interests of both, i.e., the employees and employers, in situations of workforce reductions and ensure that such actions are not arbitrary or unfair. While the Industrial Disputes Act aims to focus on formalities like compensation and government approval, the Shops and Establishments Acts cater to the needs of non-industrial workers. Meanwhile, the Trade Union plays an important

role in ensuring that such actions are in line with the mutual interest of the workforce. Collectively, these laws look out to protect and stabilize the employer's need to restructure or downsize, with the employee's right to fair treatment against unfair termination.

Industrial Disputes Act, 1947 The Industrial Disputes Act provides thorough regulations for layoffs, retrenchment, and various other labor disputes in industrial establishments. Chapters VA & VB (Sections 25A-25S): Govern layoffs, retrenchments, and closures, including limits, procedures, compensation, and penalties. A layoff, according to Section 2(kkk) of the Industrial Disputes Act 1947, occurs when an employer cannot provide work for workers. This may happen because of a shortage or other factors that prevent work from being done. Layoffs are temporary and often arise from situations beyond the employer's control. Workers who are laid off are entitled to receive 50% of their basic wages and dearness allowance for up to 45 days each year, as stated in Section 25C. Retrenchment is when a company permanently lays off an employee for economic reasons, like a business downturn or restructuring. Under the Industrial Disputes Act of 1947, retrenchment means letting go of an employee for reasons other than misconduct and does not include voluntary retirement. Laid-off employees must receive compensation equal to 15 days' average pay for each year they worked. Workers employed for over a year must get at least one month's notice or pay before being laid off. Companies with 100 or more employees must obtain government approval before layoffs to ensure fair treatment. Shops and Establishments Acts Every state in India has its specific Shops and Establishments Act, which aims at governing the working conditions of non-industrial workers, such as those employed in offices

shops, and other commercial establishments. As per these Acts, employees are entitled to receive a certain period of notice before termination, which depends on the duration of their service. For example, in Maharashtra³, a notice period of 30 days is required if the employee has worked for more than one year. These Acts also ensure that non-workmen are protected by employment contracts and have the right to challenge unfair termination. Trade Unions Act, 1926 The Trade Unions Act, 1926, is fundamental in the milieu of layoffs and retrenchment. It acknowledges the workers' right to organize into trade unions and participate in collective bargaining. When layoffs or retrenchments are proposed, employers have to consult and negotiate with the trade unions or workers' representatives. This guarantees that the interests of the workers as a whole are taken into account before taking any such actions. III. Procedural Requirements for Layoffs and Retrenchment The procedural requirements for layoffs and retrenchments should be carried out in a structured and legal manner. The minimum notice period for workmen is at least 1 month before retrenchment or pending payment as per the Industrial Disputes Act, 1947. In situations of misconduct that involve show-cause notices or disciplinary inquiry, immediate termination or dismissal is sanctioned. Workmen are entitled to 15 days' average pay per completed year of service, including pro rata for periods over 6 months as retrenchment compensation. Employees who have completed at least 5 years of service in the organization are entitled to receive half a month's remuneration for each year of service under the Payment of Gratuity Act 1972⁴, and employers are obliged to settle dues like leave encashment, any bonus, and other statutory payments as part of the final settlement. As per the provisions of Sections 25N or 25O of the ID Act, in cases where more than 100 employees are retrenched or terminated, employers must notify the State Government in advance and receive their consent and according to section 25F, the employer must provide a written notice to the concerned employees notifying the cause of retrenchment, notice period, or pending payment, and at the same time, file a notice with the relevant government office. The employer has to preserve records of notices, compensation provided

(gratuity, leave), and correspondence with officials, to guard themselves against litigation. IV. Legal Risks and Consequences of Improper Layoffs The various associated legal risks and repercussions of improper layoff include various claims under different statutes. The corporations frequently have to deal with various class action suits or individual claims, which can even attract daily penalties, legal costs, and compensation to persons affected. One of the major difficulties the corporation has to face is a threat to its reputation, i.e., if a layoff is executed in a mismanaged manner, it may lead to negative media coverage, major backlash on social media, and in the market. Damage to reputation will lead to revenue loss, a decline in shareholders' trust. Reconstructing confidence will require a lot of time, effort, and communication⁵. Hence, in order to mitigate such risks, corporations should have strategies prepared well in advance, which may involve strategies like carrying out legal risk audits, impact analysis, offering fair severance and release agreements, documenting decisions thoroughly, and communicating empathetically. This may also help in preserving stakeholders' trust. In order to avoid such backlash and damage, employees should handle layoffs and retrenchment in a sophisticated and strategic manner and also adhere to legal provisions. A proper layoff begins with strategic planning, including a review of the company's financial position and employment needs. A clear communication plan for affected employees and others is essential to explain the reasons for the layoffs and minimize misunderstandings and rumors. Compliance with all concerned laws is non-negotiable. By integrating, this organizational resilience is maintained. In the case of *Laxmi Devi Sugar Mills Ltd v. Ram Sagar Pandey* (1957)⁷, The Supreme Court of India states certain conditions that need to be followed while retrenching employees. The following conditions will be considered valid for retrenchment: 1. It is the employer's responsibility to prove that the retrenchment is taking place due to financial issues,

like a decline in business due to trade reasons or on account of surplus labour. No other reason would be considered valid. 2. Before retrenchment, the employer must send a notice to the employees who will be retrenched, and retrenchment compensation must be paid to them as stated in Section 25F of the Industrial Dispute Act, 1947. 3. While retrenching the employees, the employer must follow the principle of 'last come, first go'. It means that those who were employed last among all the other employees will be the first to be retrenched. 4. Another condition stated by the Court was that the employers need to prove that there are no other alternatives to retrenchment, like transferring or redeploying the employees to other places, or the presence of any other options. These are the grounds that the employers of an establishment have to follow before retrenching the employees from their services. In the case of *Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd. and Anr* (1992)⁸ The plaintiff filed a suit challenging the constitutional validity of Section 25N. He argued that Section 25N of this Act was violating the employees' fundamental rights to equality and freedom under Article 14, Article 19(1)(g), and Article 19(6) of the Constitution of India⁹. It was contended by the plaintiff that the employers cannot retrench them from the establishment as they do not have the right to do so. The Supreme Court rejected the contention, stating that Section 25N is not unconstitutional. Employers can retrench employees, but only under certain conditions that are placed on them. The employers' failure to retrench the employees in accordance with the provisions of Section 25N can lead to industrial disputes. So the court gave the power to raise industrial disputes to both the management and the employees. Both of them were given the right to move the court for approval or refusal of retrenchment. Recent judicial pronouncements on retrenchment in Labour Law¹⁰ In the case of *Ashok Gupta v. Modi Rubber Limited* (2021)¹¹, The plaintiff filed the suit against the person who had appointed him as the law officer in his company. Though his services were verified by the defendant, he was not permitted to enter the company premises. He was notified that his employment was terminated with immediate effect.

The reason stated for his termination of employment was due to business emergencies and administrative reasons, not as a punishment. The Trial Court of New Delhi stated that termination of employment by way of retrenchment could occur for any reason whatsoever. But in this case, it cannot be considered retrenchment as the notice of retrenchment was not served upon the plaintiff. So it was not valid as per Section 25, though he will get compensation as per Sections 73 and 74 of the Indian Contract Act, 1872. Hence, in order to address issues that arise between employers and employees, the Industrial Dispute Act of 1947 was passed. This Act's retrenchment clause is fundamental because it allows for the lawful termination of employees without causing mayhem. However, the Act specifies a process that must be followed before laying off employees. Employees can also contest the employer's decision if they believe their dismissal was unfair, and can also approach the tribunal and object to the decision. Therefore, it serves to benefit both the employers and employees since it maintains peace and harmony at the corporation.

Conclusion

Retrenchment and layoffs, although at times unavoidable in restructuring a business, are fraught with heavy legal liabilities under Indian labour legislation. Notable enactments such as the Industrial Disputes Act, 1947, and state Shops and Establishments Acts provide for procedural protection in the form of notice, compensation, and government sanction in certain situations. Non-adherence can result in lawsuits, reinstatement orders, and loss of reputation. Courts have acted persistently to enforce fairness and due process. While India evolves towards a streamlined labour system under the newly drafted labour codes, corporations need to have proactive, legally compliant HR practices. Strategic planning, effective communication, and compliance with laws are necessary not only to manage risks but also to ensure corporate integrity.

CORPORATE GOVERNANCE IN FAMILY-OWNED BUSINESSES-LEGAL CHALLENGES

Mamta Suthar

DO YOU KNOW THAT FAMILY-OWNED BUSINESSES ARE OLDEST FORM OF BUSINESS ORGANIZATION ALL OVER THE WORLD? YES, Family-owned businesses are the oldest form of business organization in human history. Family-owned businesses have a history that date back thousands of years. So, let us first understand the global history of family-owned businesses: In ancient Egypt, Rome, trade and craft professions were passed down from one to next generation. Merchant families like the Medici become powerful through family-run banking empires. During 18th-19th century the industrial revolution marked the rise towards famous and well known firms such as TATA (BHARAT) and FORD (USA). Families invested in factories and manufacturing units leading to global business empires. Indian business communities like marwaris , banias played major role in this field. British policies were creating problems to Indian entrepreneurship, but families like Tata, Birla , Godrej made a strong industrial empires. Now, let us understand what actually a family-owned business is? A family-owned business is a company that is owned, managed and controlled by family members. One or more family members are involved in running the business and aims to pass the same to their next generations. KEY FEATURES OF FAMILY-OWNED BUSINESSES : 1. OWNERSHIP: The majority of shares or control is held by family members only. 2. MANAGEMENT: Family members are actively involved in decision making process and whole management is controlled by family members only. 3. SUCCESSION: There is usually a plan to hand over the business to children. 4. VALUES: Family traditions, moral values, trust, legacy often guides the business culture. Family-owned businesses form the backbone of many economies. In India alone, over 85% of businesses are owned or controlled by families. Globally, from Samsung in south korea to Walmart in USA contribute significantly to innovations and GDP. Yet, despite their success, they often struggle with unique corporate

governance challenges especially when the line between family loyalty and business strategy begin to get blur. To understand corporate governance challenges faced by family-owned businesses, let us first understand what is corporate governance? Definitions of corporate governance: 1. "Corporate governance is the application of best management practices, compliances of law in true letter and spirit and adherence to ethical standards for effective management and distribution of wealth and discharge of social responsibility for sustainable development of all stakeholders."1 2. "Corporate governance involves a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performances are determined."2 In simple words, corporate governance refers to the system of rules, practices, and processes by which a company is directed and controlled. It ensures that businesses are run ethically, transparently, and in the best interests of all the stakeholders such as employees, customers and society. ELEMENTS OF GOOD CORPORATE GOVERNANCE : 1. BOARD SKILLS: The board must possess the necessary mix of qualities, skills, knowledge and experience to undertake its functions efficiently and effectively. 2. BOARD APPOINTMENT: Board must appoint the people with great knowledge and experience as the director of company to run the company smoothly. 3. ROLE AND POWER OF BOARD: Board of directors must know their roles and power they hold in company so that they avoid making unnecessary mistakes. Good corporate governance brings a lot of advantages to a company, few of them are written below:

1. It helps in brand formation and development. 2. It brings a positive impact on share prices of a company. 3. It also minimizes wastages, corruption, risks and mismanagement. 4. Strong corporate governance maintains investor's confidence and trust in a company. 5. It ensures that company is working in true and fair manner. Although family-owned businesses contribute a lot in the economy, but they face quite unique legal challenges due to overlapping roles of family members as owners, managers and shareholders, legal obligations clash with traditional family values and informal management.

MAJOR LEGAL CHALLENGES IN CORPORATE GOVERNANCE:

A. LACK OF INDEPENDENT DIRECTORS AND BOARD COMPOSITION: Many family businesses struggle with maintaining an independent and professional board structure. Often, boards are packed with relatives, making it difficult to ensure independent insight. The Companies Act 2013, under section 149 mandates listed companies to have at least one – third of their board as independent directors.³ However, in FOB's this is often seen as compliance formality, not a genuine governance mechanism. This leads to poor decision making and conflict of interest.

B. SUCCESSION AND LEADERSHIP TRANSITION: Succession planning is emotionally and legally complex. Most family-owned businesses lack a formal succession plan and that leads to disputes after founder's death. In India succession planning is governed by Hindu Succession Act, 1956 or Muslim Personal Law it depends on the religion of owner of that organization. When succession is not legally documented it results into litigations which goes on for long which have a negative impact on business operations and also on stakeholder confidence.

C. MINORITY SHAREHOLDER RIGHTS AND OPPRESSION: In FOB's majority shareholders can suppress minority shareholders voice. Under the high position majority shareholders can pass a resolution which can affect business or the rights of minority shareholders. Under section 241 and 242 of companies act, 2013 minority shareholders get relief against oppression and mismanagement.⁴ Still, minority shareholders are often forced to litigate against family members fearing financial drain.

D. TRANSPARENCY AND FINANCIAL DISCLOSURE: Family-owned businesses often operate in a non-transparent manner, mixing personal and business finances. SEBI mandates listed companies to make proper disclosures under regulations 30 of LODR regulations.⁵ However, in reality private family businesses often fall outside this scrutiny, unless they are listed or have more public shareholdings in their business.

E. RELATED PARTY TRANSACTIONS: FOB's are highly engaged in related party transactions, as majority members of business are family members only. As a result it raises conflict of interest issues. Although section 188 of Companies Act, 2013 regulates related party transactions.⁶ But enforcement is weak which results into compromising fair and independent valuation. Let us understand the legal challenges faced by family-owned businesses through real life cases:

1. TATA SONS VS. CYRUS MISTRY Tata group is the India's largest firm, founded in 1868 by Jamsetji Tata. Tata Sons is its principal holding company. Cyrus Mistry's family-owned "Shapoorji Pallonji" held 18.4% in Tata Sons which makes them the largest minority shareholder. In the year 2012, Cyrus Mistry was appointed as Executive Chairman of Tata Sons, the first non-Tata family head in nearly 150 years. In the year 2016, the board of Tata Sons abruptly removed Cyrus Mistry from the chairman position without a clear explanation, which led Cyrus Mistry to file a case against Tata Sons in the year 2017 the battle was ended in the year 2021 by Supreme Court decisions. (Tata Consultancy Services Ltd v. Cyrus Investments Pvt Ltd, , n.d.) During the period while case was on going Tata Sons faced some core governance issues in the company, few of them are explained below:

1. LACK OF TRANSPARENCY: No prior notice or explanation was given before removing a chairman.

2. MINORITY SHAREHOLDER RIGHTS: Mistry's removal was seen as suppression of minority voices.

3. INFLUENCE OF PROMOTERS: Tata Trusts which is mainly run by Ratan Tata influenced board decision without official position.

4. BOARD INDEPENDENCE: Independent directors favored promoters, which was questioning their true independence.

5. PUBLIC IMAGE AND BRAND EROSION: Case damaged Tata's reputation on global level. In conclusion, Tata-Cyrus Mistry case is a landmark in Indian corporate governance jurisprudence. It shows the tension between promoter control and professional management, the role of minority shareholders, and the need of independent board functioning.

2. VOLKSWAGEN "DIESELGATE" SCANDAL (GERMANY, 2015) Volkswagen AG (VW) is one of the world's largest automobile manufacturers, located in Wolfsburg, Germany. The company was founded in the year 1937. VW owns famous brands such as Audi, Lamborghini, and SEAT. The company has historically emphasized engineering excellence and German innovation, with a strong global presence. In the late 2000s, VW heavily marketed "clean diesel" vehicles in Europe and North America particularly in United States, where the environmental regulations are strict. In between 2006-2007 VW engineers struggled to develop a diesel engine that could meet U.S. emissions standards without compromising performance and cost. Core problem started in September 2015, the U.S. Environmental Protection Agency (EPA) publicly accused Volkswagen of installing defeat devices (a type of illegal software) in its diesel vehicle to cheat the emissions tests. Volkswagen admitted to installing illegal software in over 11 million diesel vehicles worldwide to cheat emissions tests. The software reduced emissions only during official tests but allowed vehicles to pollute far beyond legal limits in real-world driving. (United States v. Volkswagen AG, 2017) All this led to one of the biggest corporate scandals in global history, with governance failure to its core.

CORPORATE GOVERNANCE ISSUE FACED BY VW:

1. LACK OF BOARD OVERSIGHT: VW's supervisory board failed to detect the emissions fraud for years.
2. DOMINANCE OF INSIDERS: The board was heavily influenced by founding Porsche family limiting transparency.
3. WEAK WHISTLEBLOWER CULTURE: Engineers knew about the cheating but feared speaking out.
4. CONFLICT OF INTEREST: Political influence from state of Lower Saxony, a major shareholder.

These cases underscore how the absence of good governance mechanisms can result in reputational, legal, and financial damage in the most well long established companies. These

examples show the need for family-owned businesses to move away from informal trust-based structures and to adopt the transparent, law-abiding, and professionally managed corporate governance systems. To make the business run smoothly and effectively. TO OVERCOME THE GOVERNANCE CHALLENGES, FAMILY-OWNED BUSINESSES MUST:

- SEPARATE OWNERSHIP FROM MANAGEMENT.
- INTRODUCE INDEPENDENT BOARD MEMBERS.
- FORMALIZE SUCCESSION PLANNING.
- COMPLY WITH DISCLOSURE OBLIGATIONS.
- INSTILL A CULTURE OF ACCOUNTABILITY.
- IMPROVE TRANSPARENCY AND DISCLOSURES.
- REGULATE RELATED PARTY TRANSACTION MORE EFFECTIVELY.
- MUST CREATE A FAMILY CONSTITUTION OR CHARTER. Ultimately, a sustainable growth in family businesses requires a balance between preserving family values and upholding the legal and ethical standards of modern corporate governance.

ROLE OF CORPORATE RESTRUCTURING IN PREVENTING CORPORATE FAILURES

Maneet Kaur

Restructuring is not about downsizing. It's about rethinking and redesigning the way we do business." In the ever-evolving world of business, not every enterprise story ends in success. Markets shift, leadership falters, and strategies misfire—pushing once-thriving corporations to the edge of collapse. Yet, failure isn't always the end. Sometimes, it's the beginning of a bold transformation. Enter corporate restructuring—a powerful strategy that helps companies rewrite their comeback stories. When a business teeters on the brink of failure, restructuring serves as both a shield and a sword: protecting core value and slicing away inefficiencies, debt burdens, or outdated models. Corporate restructuring, which covers a number of strategies like debt restructuring, mergers, demergers, and spin-offs, is crucial in helping a troubled business return to operational efficiency as opposed to going into liquidation. Mergers today have become a tool for companies to diversify their operations, increase market share, and achieve economies of scale. The Companies Act is the primary legislation in India that governs the incorporation, management, and operation of companies. In Indian legislation, a merger¹ has been defined as an amalgamation of two or more companies into one new or existing company. The Companies Act deals with the process of mergers and acquisitions from sections 232-234. **LEGAL AND REGULATORY FRAMEWORK** The laws governing corporate restructuring in India are designed to make expansion easier while ensuring fairness for everyone involved, such as shareholders, creditors, and the overall economy. Here's a simple explanation of the key laws: 1. Companies Act, 2013 This is the main law for corporate restructuring. Sections 230-234 of the Act explain the steps for mergers, amalgamations, and demergers. These processes need approval from:² a. Shareholders b. Creditors c. National Company Law Tribunal (NCLT), a special court that ensures the process is fair and transparent.

2. SEBI Regulations If a company is listed on the stock market, it must follow SEBI rules, including the SEBI Takeover Code. These rules add extra checks for acquisitions or takeovers. They ensure that the process is transparent and protects investors.³ 3. Competition Act, 2002 The Competition Commission of India (CCI) reviews large mergers and acquisitions to make sure they don't harm competition in the market. For example, if a merger creates a company that's too powerful, it could unfairly control prices or limit choices for customers. The CCI ensures this doesn't happen.⁴ 4. Income Tax Act, 1961 Taxes can be a big concern during restructuring. The Income Tax Act offers benefits to make expansion easier:⁵ a. Section 47 allows certain restructurings, like mergers or demergers, to be tax neutral, meaning no extra taxes are charged if specific conditions are met (e.g., the business continues to operate). b. Section 50B deals with slump sales, where a part of the business is sold for a lump sum, and it outlines how taxes apply. 5. Fast-Track Mergers (Section 233, Companies Act, 2013) For smaller companies or mergers between a parent company and its subsidiary, the law offers a simpler process called a fast-track merger. Instead of going through the NCLT, these mergers only need approval from the Registrar of Companies (RoC), making the process faster. As of April 2025, new draft rules may expand this option to more companies, helping them grow more quickly.⁶ Here are few notable corporate restructurings in India: 1. Acquisition of Flipkart by Walmart: One of the notable deals in corporate restructuring in India was the acquisition of Flipkart, India's leading e-commerce platform, by Walmart in 2018. This deal valued at approximately USD 16 billion and marked Walmart's entry into the Indian market. The acquisition enabled Walmart to

leverage Flipkart's extensive customer base and e-commerce expertise while providing Flipkart with access to Walmart's global supply chain and retail expertise.

2. Reliance Industries' Stake Sales in Jio Platforms: Reliance Industries, one of the leading conglomerates in India, undertook a series of stake sales in its digital subsidiary, Jio Platforms, in 2020. These deals involved investments from global tech giants such as Facebook, Google, and Qualcomm. The stake sales valued Jio Platforms at over USD 65 billion and aimed to unlock value and accelerate growth in the digital ventures of Reliance Industries, including Jio Platforms and Reliance Retail.

3. Hindustan Unilever's Merger with GlaxoSmithKline Consumer Healthcare India: In 2019, Hindustan Unilever, a leading fast-moving consumer goods (FMCG) company, merged with its wholly-owned subsidiary, GlaxoSmithKline Consumer Healthcare India Ltd. (GSKCH), through an all-stock deal. This merger aimed to drive operational efficiencies, synergies, and growth opportunities in the FMCG sector.

Regulatory aspects on corporate restructuring in India

Regulatory aspects play a crucial role in shaping corporate restructuring activities in India, ensuring transparency, fairness, and protection of various stakeholders, including employees. The recent case law of *Mohnish Jain And Another vs State Of U.P. And Another* on 27 May, 2025 –7 In the present case, the main allegation against the accused was that they were jointly and severally liable for the issuance of a cheque by the company, despite knowing that the cheque would be dishonoured due to insufficient funds. However, the court observed that: The accused was neither the signatory of the cheque nor a whole-time Director and the complaint lacked specific averments explaining how the accused was in charge of and responsible for the conduct of the company's business at the relevant time. Merely stating that the accused were aware of the cheque and its likely dishonour is not sufficient to attract liability under Section 141 of the Negotiable Instruments Act, 1881. The court found that the complaint did not meet the legal threshold under Section 141 and no jurisdictional infirmity was found in the order of the court. Hence, both applications were dismissed, and any interim order stood vacated. The dismissal of

the applications upholds this requirement and provides clarity on the scope of criminal liability for company officers under the Negotiable Instrument Act. The Companies Act sets out the procedures for mergers and acquisitions, including the approval of shareholders and regulatory authorities, the valuation of shares, and the treatment of minority shareholders. Mergers are lengthy and complex processes, so a lot can go wrong when negotiating a deal. As per a recent article by Harvard Business Review, nearly 70% to 90% of mergers and acquisition deals were deemed to be a failure. One of the major reasons associated with this failure is the lack of effective due diligence. Due Diligence refers to the process of thoroughly investigating a company's overall operations. Black's Law Dictionary defines due diligence as 'the diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation'. This process helps determine potential risks associated with the merger to foster key investment decisions. The term overall operations refer to analysing all aspects of a company like finance, management, legal and compliance, etc. Warren Buffet once said, "A sales pitch gives you the price, while due diligence gives you the value." The process of due diligence is essential at every step of the M&A process. It helps to ensure that the buyer is equipped with all the essential information to proceed with the purchase. The procedure makes sure that both parties receive the greatest fair-value price. Due Diligence is a form of research, and analysis that is conducted by the investor to ensure minimal risk of the acquisition deal. A successful M&A facilitates a company's market presence, fills in gaps in a company's product, and improves profitability and other performance metrics. There exist transactions that do not perform as per expectations of the acquirers/merging entities like not making positive returns or resulting in negative growth which can cause serious damage to the company, board of directors, and management. The restructuring process tends to affect

employees more than any other stakeholders. The freezing of hiring and salary cuts created a sense of job insecurity and financial strain for existing employees. Those affected by the downsizing of non-core business units faced the possibility of job losses or reassignments to different roles within the organization. The restructuring measures, while aimed at enhancing the bank's overall performance, led to uncertainty and anxiety among employees about their future career prospects and job stability.⁹ Regulations and guidelines exist in India to protect employees' rights during corporate restructuring, ensuring their fair treatment and safeguarding their interests. Here are some key aspects of the regulatory framework aimed at protecting employees:

- **Companies Act, 2013:** Under this legislation, companies are required to disclose details of the proposed restructuring to employees, including its implications on their employment, remuneration, and benefits. Employees have the right to be heard and express their views on the restructuring. This promotes transparency and provides employees with an opportunity to voice their concerns and suggestions.
- **Labor Laws:** Various labor laws come into play during corporate restructuring to safeguard employees' rights. These include the Industrial Disputes Act, which governs employee layoffs, retrenchment, and compensation requirements. The Employees' Provident Funds and Miscellaneous Provisions Act and the Employees' State Insurance Act ensure that employees' statutory benefits and social security are protected during restructuring.
- **Due Process and Notice Periods:** Employers are required to follow due process and provide adequate notice periods to employees affected by restructuring. This allows employees to have sufficient time to plan for their future and explore alternative employment options. The notice period provides a buffer for employees to adjust to the changes brought about by the restructuring.

In conclusion, I believe that in today's volatile economic environment, corporate restructuring is essential to ensure sustainability and sound governance. A well-planned restructuring process fosters accountability, financial discipline, and operational

agility—factors that are indispensable in preventing corporate collapse. Moving forward, organizations must treat restructuring not as a last resort but as a continuous improvement strategy.

THE IMPACT OF THE COMPANIES

Nitin Choudhary

The increasingly complex corporate structures present a significant challenge to identify the true individuals behind a company's operations. This in turn makes it difficult for companies and regulators to pinpoint who holds genuine beneficial interest and control, not just direct ownership in the Company. Consequently, a lack of transparency creates opportunities for the misuse of corporate vehicles including for purposes like tax evasion, money laundering, and even terrorist financing- as individuals hide their identities behind layers of legal arrangements to mask illicit activities. The Companies (Significant Beneficial Owners) Rules, 2018 were enacted in India to address this issue by mandating greater transparency and accountability in corporate ownership. This article explores the significant impact of these regulations on businesses, highlighting their requirement for careful identification of ultimate beneficiaries, the increased compliance burdens they impose, and the severe consequences of non-compliance, as demonstrated by prior regulatory measures. | The Company Law Committee in its report (February 2016)¹ has given their recommendations on the Companies (Significant Beneficial Owners) Rules, 2018 mentioning the loopholes in the existing regulatory framework and reasons necessary to identify the beneficial owners of a Company. The Company Law Committee made the following recommendations a. provide a definition of beneficial interest in a share and beneficial ownership in a Company; b. make the Companies obligated to obtain information on beneficial ownership and obligate the individuals to report their beneficial ownership or interest in the shares of the Company; c. mandate Companies to maintain registers of beneficial owners and provide the information to the registrar, and d. the Companies not complying with the requirements shall be made liable to fine and criminal prosecution. The intent behind these recommendations was to identify the real

natural persons that are controlling a company and to bring conformity with the standards that are adopted by other countries in relation to beneficial ownership. On a similar note the Financial Action Task Force ("FATF") during March 2022 had also published its recommendations (Recommendations 24) regarding beneficial ownership. The intention behind these recommendations was to identify the corrupt individuals that are beneficially interested in the Company and to stop them from carrying out their illicit activities. The recommendations provided for strengthening the requirements of transparency of the beneficial ownership of legal persons. | Beneficial interest in a share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to: i. ii. exercise or cause to be exercised any or all of the rights attached to such share; or receive or participate in any dividend or other distribution in respect of such share. 2 Companies Act 2013, Section 89, 2013 Pursuant to the provisions of Section 89, every person whose name is entered in the register of members as holder of the shares but does not have beneficial interest and a person who holds beneficial interest in the shares of the Company is required to make a declaration.

b. Significant Beneficial owner/ownership

As per clause (h) of Sub-rule 1 of Rule 2 of the Companies (Significant Beneficial Ownership) Rules, 2018, "significant beneficial owner" in relation to a reporting company means an individual referred in Section 90(1) who acting alone or together, or through one or more persons or trust possesses one or more of the following rights or entitlements in such reporting company namely: i. Holds indirectly, or together with any direct holdings, not less than 10% (ten percent) of the shares; ii. Holds indirectly, or

together with any direct holdings, not less than 10% (ten percent) of the voting rights in the shares; iii. Has right to receive or participate in not less than 10% (ten percent) of the total distributable dividend, or any other distribution, in a financial year through indirect holdings alone, or together with any direct holdings; iv. Has right to exercise, or actually exercises, significant influence or control, in any manner other than through direct-holdings alone. For the purpose of this clause, if an individual does not hold any right or entitlement indirectly under sub-clauses (i), (ii) or (iii), he shall not be considered to be a significant beneficial owner. Here, "acting alone or together" means when an individual or individuals through any person or trust act with the common intent to exercise any right or entitlement, or to exercise control or significant influence, over a reporting entity in accordance with a formal or informal agreement or understanding This shows that under Section 90(1) of the Companies Act, 2013, the responsibility to disclose significant beneficial ownership (SBO) lies with the individual. The individual must: i. Determine whether they are acting alone or together with others ii. Disclose the nature and extent of their interest in the company. iii. Assess whether there is any common intent or purpose with others to exercise rights, control, or significant influence. Further an individual shall be considered to hold a right or entitlement indirectly in the reporting company, if he satisfies any of the following criteria, in respect of a member of the reporting company, namely

a. Body corporate (other than an LLP) as a shareholder

the individual holds majority stake in that member or holds majority stake in the ultimate holding company (whether incorporated or registered in india or abroad) of that member

b. Hindu undivided family (HUF) as a shareholder
the individual karta of the HUF shall be considered as a SBO

c. Partnership firm as a shareholder

the individual partner of the firm or the person holding majority stake in the firm or person holding majority stake in the ultimate holding of the firm shall be considered as SBO

d. trust as shareholders

the trustee or beneficiary or the author or settlor of the trust shall be considered SBO

e. Pooled investment vehicle or entity controlled by the polled investment vehicle of the FATF and member of the international organization of securities commissions the general partner or

investment manager or the chief executive officer shall be the SBO.

COMPLIANCE OBLIGATIONS FOR CORPORATES

A. identification of SBOs

The reporting companies are required to actively seek information from individuals or entities suspected to be SBOs. For this they shall issue notices to persons in Form BEN-4 whom they believe; i. to be a significant beneficial owner of the company; ii. to be having knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge; or

iii. to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued, but have not declared their status.

B. Maintain Records

To keep a register of SBOs in Form BEN-3, accessible for inspection by members.

C. file returns

submit form BEN-2 to the registrar of companies (ROC) within 30 days of receiving SBO declarations.

d. Non- compliance

in case the companies fails to maining registered or refrains from allowing members to inspect the registers then the company and its officers in default shall be liable to penalty. the companies shall be liable to a penalty of up to five lakh rupees.

ENFORCEMENT ACTIONS AND CASE STUDIES

The Ministry of Corporate Affairs ("MCA") has demonstrated a stringent approach towards enforcing the SBO Rules. Here are a few cases where the RoC has penalised not only the Company but also its senior managers for failing to disclose their significant beneficial ownerships. In 2024, the RoC had penalised LinkedIn Technology Information Private Limited and its executives, including Microsoft CEO Satya Nadella and LinkedIn CEO Ryan

Roslans for failing to disclose the significant beneficial ownership. The authorities determined that despite the absence of direct shareholding, these individuals exercised significant influence over the Indian entity, thereby qualifying as SBOs. Further, it was noted that LinkedIn India had adopted a resolution that the decision of the Board of Directors shall not override the decisions of the treasurer of Microsoft Corporation in relation to financial control. In a similar case, the reporting company i.e., Samsung Display Private Limited, a subsidiary of Samsung Display Co., failed to submit the required Form BEN-2, leading to a penalty of Rs. 8,14,200. The reporting company had failed to take into consideration the indirect holding by virtue of indirect holding, exercise of control or significant control. The investigation revealed that the Lee family, through cross-ownership in Samsung subsidiaries, exerted significant control over the company. The Registrar emphasized the importance of transparency in ownership, especially in complex conglomerate structures, to prevent issues related to foreign exchange and tax evasion. These cases show that the Companies irrespective of the fact being an artificial entity operate under the control of individuals and it is the duty of the Companies to identify not only the direct owners or shareholders but also the indirect shareholders of the Company. The onus is on the Companies to carry out various assessments including those mentioned in the Act to identify the beneficial owners so as to increase transparency and promote corporate governance.

CONCLUSION

The Significant Beneficial Ownership (SBO) Rules impact Companies by enforcing them to provide clear disclosures about their ownership structures, promoting accountability and compelling them to implement robust mechanisms to identify and report SBOs, which may involve navigating complex ownership hierarchies. Penalties for non-compliance force companies to thoroughly analyse their corporate structures, identify individuals with beneficial interests, and require those individuals to submit formal declarations. The rules play an important role in enhancing corporate transparency and governance by piercing the corporate veil—

ensuring the ultimate beneficiaries behind layered or offshore entities are revealed, as mandated under Section 90 of the Companies Act read with the SBO Rules.

THE INFLUENCE OF INTERNATIONAL ACCOUNTING STANDARDS ON INDIAN CORPORATE LAWS.

Prachi RV

Introduction Accounting Standards may be defined as the writer policy documents issued by an expert Accounting body or government or other regulating bodies covering the aspects of recognition, measurement presentation and disclosure of the transactional and other events in the financial statements. The expression Accounting Standards means generally accepted models or Ideas for Accounting. International Accounting Standards (IAS) are a set of Accounting principle and rules developed to bring consistency, transparency and comparability to financial statements across different countries. They are part of broader framework known as International Financial Reporting Standards (IAS) History International Accounting Standards (IAS) was established in 1973 but it has been replaced by International Accounting Standards (IAS) in the year 2005. London based group namely the International Accounting Standards Committee (IASC), responsible for developing International Accounting Standards (IAS) , was established in June 1973. It is presently known as International Accounting Standard Board (IASB). The IASC comprises the professional accountancy bodies of over 75 countries (Including the Institute of Chartered Accountants of India). Purpose of International Accounting Standards (IAS) : • To Standardize Accounting across countries. • To improve the quality comparability and transparency of financial reporting. • To help investors and stakeholders make inform decision. Examples of International Accounting Standards (IAS): IAS 1- Presentation of financial statement. IAS 2- Inventories IAS 7- Statement of cash flows IAS 8- Accounting policies, change in accounting estimates and errors IAS 10- Events after balance sheet IAS 12- Income taxes IAS 16- Property, plant and equipment IAS 34- Interim financial reporting IAS 40- Investment property IAS 41- Agriculture IAS-19- Employee Benefits IAS-20-Accounting for Govt. Grant and Disclosure of Govt. Assistance IAS-21-The Effect of Changes in

Forex Rates IAS-23-BorrowingCosts IAS-24-Related Party Disclosures IAS-26-Accounting and reporting by retirement benefit plans IAS-27-Separate Financial Statements IAS-28-Investment in Associates and Joint Ventures IAS-29- Financial Reporting in Hyper inflationary Conditions IAS-32-Financial Instruments- Presentation IAS-33-Earnings Per Share IAS-34- Interim Financial Reporting IAS-36-Impairment of Assets IAS-37-Provisions, Contingent Liabilities and Contingent Assets IAS-38-Intangible Assets Positive Impact of International Account Standards on Indian Corporate laws: 1. Improved Transparency and Comparability • The adoption of IAS has helped Indian companies align their financial reporting with global standards, making it easier for foreign investors and stakeholders to understand financial statements. This is particularly important for multinational companies and companies seeking to attract international investment. 2. Attracting Foreign Investment • When Indian companies adhere to international accounting standards, it sends a signal of reliability, trustworthiness, and global alignment. As a result, foreign investors feel more confident in investing in Indian companies, which is vital for the country's capital markets. 3. Facilitating Mergers and Acquisitions • Companies engaged in cross-border M&A transactions must ensure compliance with international regulations. IAS/IFRS adoption helps streamline this process, minimizing legal and financial complexities. 4. Strengthened Corporate Governance • IAS has introduced more rigorous and transparent accounting practices that promote accountability and trust. The introduction of fair value accounting and detailed disclosure requirements, for instance, has improved the quality of financial reporting and has created stronger checks and balances in corporate governance.

5. Increased Accountability and Reduced Fraud • With stricter guidelines on revenue recognition, asset valuation, and disclosure requirements, companies are less likely to manipulate financial statements for personal or organizational gain. 7. Tax and Legal Compliance • The adoption of IAS also aligns Indian corporate laws with international tax laws. For example, the treatment of certain income, expenses, and assets under IAS/IFRS impacts the tax position of companies. 8. Promotion of Financial Market Stability • Clear, standardized accounting practices can help stabilize financial markets by reducing uncertainties and providing investors with accurate, comparable information. This helps in making better investment decisions, which in turn promotes market stability. 9. Promoting Sustainability Reporting • IAS and IFRS have increasingly incorporated non-financial information, such as environmental, social, and governance (ESG) factors, in corporate reporting. In India, this has supported the government's push for sustainability reporting and aligned corporate practices with international standards on sustainability. 10. Increased Competitiveness for Indian Companies • By adopting IAS, Indian companies gain a competitive edge in the global marketplace, as their financial reporting practices are now recognized and trusted worldwide. This alignment with global practices allows them to compete on equal footing with companies from developed economies.

Negative Impact of International Account Standards on Indian Corporate laws:

1. High Implementation Costs • Transitioning from local accounting standards to IAS required a significant investment in training personnel, updating IT systems, and acquiring new technology to comply with the new reporting requirements. This has been particularly burdensome for smaller Indian businesses that lack the resources for such a transition. 2. Increased Complexity of Financial Reporting • The global standards are often complex and can be difficult for local businesses to interpret, especially in a developing country like India where accounting expertise in certain areas might be lacking. The detailed requirements for fair value accounting, leases, and financial instruments,

for example, may not be easily understood by all Indian companies or their accounting staff. 3. Mismatch with Local Economic Realities • Some of the IAS/IFRS provisions are designed with Western business practices in mind, and may not align well with the realities of the Indian market. For example, the treatment of certain assets or liabilities may be more applicable to companies in developed economies than to those operating in India, where businesses often face different levels of risk, taxation, and regulation. 4. Over-reliance on Fair Value Accounting • IAS/IFRS emphasizes fair value accounting, which can introduce volatility into financial statements, especially in cases where the market value of assets fluctuates significantly. For example, the valuation of financial instruments or real estate may vary based on market conditions, leading to fluctuations in reported profits and asset values. In countries like India, where markets can be less liquid or more prone to volatility, fair value accounting may create artificial fluctuations in financial results, impacting the perception of the company's performance. 5. Conflicts with Indian Taxation Laws • There is often a mismatch between the requirements of IAS and Indian tax laws, especially concerning the treatment of income, expenses, and assets. For instance, the taxation of certain items may not align with how those items are treated under IAS/IFRS, resulting in discrepancies between financial reporting and tax reporting. • IAS/IFRS often requires subjective judgment in areas like fair value estimation and impairment testing. While these judgments are intended to reflect the true value of assets and liabilities, they can also be manipulated, intentionally or unintentionally, to paint a more favourable financial picture. This could lead to misleading financial statements, especially in cases where corporate governance is weak. Cultural Resistance to Change • In many Indian businesses, particularly family-run firms, there may be a strong attachment to traditional methods of financial reporting and decision-making. The introduction of IAS can be seen as a "foreign" imposition that disrupts established business practices.

This cultural resistance can slow down the implementation process and undermine the full effectiveness of IAS adoption.

10. Loss of Control in Certain Areas of Reporting • With the shift to international standards, companies might feel a loss of control in terms of reporting practices, especially when external auditors or international regulatory bodies set the rules. The centralization of decision-making around international standards might diminish the ability of Indian firms to adapt accounting practices to suit local needs or conditions.

Conclusion The introduction of International Accounting Standards, through India's convergence with IFRS via Ind AS, has significantly reshaped the corporate financial reporting landscape. While it has enhanced the credibility, reporting systems and adjust to evolving interpretations. Moreover, the shift from a rule-based to a principle-based system demands higher professional judgment and expertise, which not all Indian enterprises are currently equipped to handle. Overall, while the integration of IFRS principles into Indian corporate law marks a step toward global harmonization, it necessitates continuous legal reforms, regulatory coordination, and capacity building to ensure smooth and effective implementation.

NAVIGATING LEGAL COMPLEXITIES: A CORPORATE LAW ANALYSIS OF STARTUP CHALLENGES IN INDIA

Prajyot Nikhade

So, you've got a brilliant startup idea. You've got the hustle, the pitch deck, and maybe even a co-founder who drinks more coffee than water. You're ready to disrupt the market, revolutionize the industry, and maybe even become the next unicorn. But wait—have you read the Companies Act 2013? No? Well, buckle up. Welcome to the wild world of Indian corporate law, where starting a business can feel like playing a video game on "expert mode"—except the boss battles are with tax forms, trademark filings, and the occasional government portal crash. From choosing the right business structure (no, "WhatsApp group" doesn't count) to dodging legal landmines like improper IP protection and compliance slip-ups, Indian startups face a legal jungle that's as thrilling as it is confusing.

- 1. Business Incorporation: Choose Your Fighter** Starting a business in India is like choosing a character in a video game. You've got: ☒ Private Limited Company – the fancy one with investor appeal. ☒ LLP (Limited Liability Partnership) – the chill one with fewer rules. ☒ OPC (One Person Company) – the solo player who thinks, "I got this." But here's the catch: whichever you choose, you're entering the MCA portal maze, where forms like SPICe+ sound spicy but are actually just spicy levels of bureaucracy. One wrong document upload and boom—you're back to square one. Pro Tip: Always double-check your director's ID proof. MCA doesn't care if your startup is the next big thing—they care if your PAN card is slightly blurry. And don't forget the DIN (Director Identification Number), which sounds like a secret agent code but is just another hope to jump through.
- 2. Licensing & Permits: The Treasure Hunt** Nobody Asked For Want to sell food? You need an FSSAI license. Want to lend money? RBI approval. Want to breathe near a hospital? Better check the zoning laws. Startups often find themselves playing "License Bingo," collecting permits from every possible department. And if you miss one? You're not just out of luck—you might be out of business. Fun Fact: Some startups spend more time

chasing permits than building their actual product. It's like being in a relationship with the government—complicated, slow, and full of paperwork. And yes, even your office coffee machine might need a fire safety clearance. Because nothing says "innovation" like a fire extinguisher audit.

- 3. Intellectual Property: Protect Your Baby** Before Someone Else Names It Your startup's name, logo, app design, and that genius algorithm you coded at 3 AM? All of it needs protection. But registering a trademark in India can take 6–18 months, and patents? Try 2–5 years. Meanwhile, someone else might launch "YourStartupButSpelledWeirdly.com" and claim they thought of it first. Case in Point: PhonePe vs. BharatPe. The court basically said, "Guys, trademark your stuff early or prepare for a courtroom drama." Startup Tip: If you've got a cool name, trademark it before your cousin uses it for his chai stall. Also, don't forget copyrights for your content and design. Because your quirky mascot deserves legal protection too.
- 4. Data Privacy: Don't Be Creepy with User Data** In the age of "click here to accept cookies," startups must tread carefully. Collecting user data without consent is like borrowing someone's toothbrush—technically possible, but morally and legally questionable. With the Digital Personal Data Protection Act, 2023, startups must now have clear privacy policies, secure data storage, and breach reporting mechanisms. Reality Check: Most users don't read privacy policies. But the government does. So, make yours less "Terms & Conditions" and more "We're not spying on you, promise." And if you're storing data on a server in your cousin's garage, maybe rethink your infrastructure strategy.
- 5. Taxation: The Ultimate Boss Level** GST, TDS, EPFO, ESIC—if these sound like random Scrabble tiles, welcome to Indian taxation. Startups must file returns, pay dues, and avoid penalties that

feel like surprise birthday gifts from the Income Tax Department. Even if you're pre-revenue, the compliance clock is ticking. And yes, there's a form for that. Actually, there are five. Startup Hack: Hire a good CA. Or become one. Either way, you'll cry less during tax season. Also, keep an eye on tax incentives under Startup India. They exist—but finding and claiming them is like unlocking a hidden level in a game. 6. Funding Fiascos: Show Me the Money (Legally) Raising funds in India isn't just about pitching your idea with a killer slide deck and a dramatic pause. It's about navigating SEBI regulations, FDI norms, and investment agreements that read like ancient scrolls. Want foreign investment? Great! Just make sure you understand FEMA rules, sectoral caps, and whether your startup is allowed to take foreign money without triggering a financial apocalypse. Startup Reality: You might impress an investor with your idea but lose them when your term sheet looks like it was written by a confused wizard. Pro Tip: Hire a lawyer before you sign anything. Or at least before you agree to give away 40% of your company for "mentorship and vibes." Also, don't forget to file your share allotment forms on time. MCA loves punctual paperwork. 7. Employee Contracts: Not Just a Friendly Handshake Hiring your college roommate as CTO is cool—until he disappears with your codebase and says, "We never had a contract, bro." Startups often skip formal employment agreements, thinking "we're all friends here." But when things go south, the lack of clear contracts can lead to disputes, lawsuits, and awkward reunions at weddings. Legal Must-Haves: ☑ Clear job roles ☑ Salary structure ☑ IP ownership clauses ☑ Exit terms (because ghosting isn't just for dating) Startup Tip: If your employment contract is shorter than your coffee order, it's time to rethink your HR strategy. Also, consider ESOPs (Employee Stock Option Plans)—but read fine print. You don't want your intern to own 10% of your company because you liked their playlist. 8. Contract Chaos: The Art of Not Getting Sued Vendor agreements, client contracts, NDAs—startups juggle more paperwork than a government office. And yet, many still rely on verbal promises and WhatsApp screenshots as "proof." Spoiler Alert: Courts don't accept emojis as binding legal terms.

Without proper contracts, startups risk payment delays, scope creep, and legal battles that make Game of Thrones look tame. involve dramatic courtroom scenes (unless you're into that). Also, keep your contracts in one place. "Somewhere in my inbox" is not a legal filing system. 9. Labor Laws: Because Free Interns Aren't Free from Law Startups love interns. They bring energy, ideas, and sometimes snacks. But if you're not complying with the Minimum Wages Act, EPF, or ESI, you might be heading toward a legal headache. Fun Fact: "Startup culture" is not a legal excuse for unpaid overtime. Startup Tip: Treat your team well, pay them fairly, and don't assume "startup hustle" means "ignore labor laws." Also, if your intern is doing full-time work, they're not an intern, they're an employee. And yes, that matters legally. 10. Environmental & Zoning Laws: Yes, Even Your Garage Office Counts Planning to launch a cloud kitchen from your basement? Or a fintech app from a farmhouse? Zoning laws and environmental permits might have something to say. Reality Check: Just because your startup is virtual doesn't mean your legal obligations are. Startup Tip: Check local laws before setting up shop. Or you might end up explaining to a municipal officer why your "AI-powered drone delivery" is flying over restricted airspace. Also, if your office has more wires than a sci-fi movie set, maybe get that electrical clearance too. Conclusion: The Startup It's exciting, exhausting, and occasionally exasperating. But here's the good news: you're not alone—every successful startup has wrestled with the same legal dragons. Whether it's choosing the right business structure, surviving the MCA maze, or figuring out if your intern needs a biometric ID, the legal landscape is tricky—but not impossible. With the right legal advice, a pinch of patience, and maybe a lawyer on speed dial, you can turn your startup dream into a legally sound reality. So go ahead—build that app, launch that product, pitch that investor. Just don't forget to read the fine print (or at least pretend you did). Because in the startup world, ignorance isn't bliss—it's a lawsuit waiting to happen.

LEGAL ASPECTS OF JOINT VENTURES IN INDIA – CORPORATE LAW PERSPECTIVE

Prashant Sharma

The world is witnessing a shift from constructivist ideals to having a realpolitik ideology where every state is driven by practical objectives rather than moral values. Hence, as the rhetoric of “nation first, no compromise” is on the rise, businesses in the world face the heat of tariff wars, restricted economies and hyper nationalism amongst countrymen. Amidst all these uncertainties, the bigger question arises, how will businesses hedge against these global crises? One of the solutions which struck the minds of financial experts like Klaus Schwab, founder and executive of World Economic Forum was through cooperation. He stated- “We are in a world that is vastly interconnected and interdependent. It is essential for the future of humanity to build this atmosphere of cooperation.”¹ Hence, driving upon the idea of cooperation, a collaboration between businesses to pool in resources for achievement of business objectives is an effective way of hedging global crises. In other words, joint ventures (hereinafter referred as JVs) can be a blessing in disguise amidst the current global uncertainties. This article aims to understand how Indian legislature has regulated joint ventures over the period of time and try to evaluate its effectiveness on business environment.

HISTORY Thanks to western soft power that anything in the world is credited to the west. However, the same is not the case with JV. Let’s dive deeper into how the entire concept of JV came into existence.

1. The Shrenis² During the Mauryan and Gupta empire people started forming socio economic associations or guilds or ‘shrenis’. They pooled in resources, shared risks and responsibilities to carry out economic activities. Sounds much like a JV, isn’t it? Even though the term JV was not coined, they carried their activities like one and were even legally recognized. Some shrenis collaborated with other guilds to trade with Southeast Asia and the Roman Empire.

Legal Mechanism: Shrenis were considered quasi-corporate bodies having

chartered rights often regulated by local officers under Mauryas. Under Gupta empire, a greater autonomy was provided as they were allowed to issue their own seals and documents which were accepted under legal norms.

2. Cross Border Collaboration As India entered into Sangam age and Chola period, Indian JVs started going global. It was during this time when maritime trade was bustling and hence, ports like Muciri in Tamil Nadu became bustling hubs for trade in gold, copper and pepper. Since, shrenis already existed in India, it started expanding towards Rome, Greece and Arab countries. Usually, merchant settlements which were part of Indian guilds coordinated commodity exchanges as well as oversaw local and global ports. King Rajendra Chola 1 not only supported guilds but also protected them. Guilds named ‘Ayyavole 500’, ‘Manigramam’ and ‘Nanadesis’ emerged to be the greatest strength of the then Chola king. These proto-JVs were a powerful cooperation of merchants, wealthy businessmen, goldsmiths and warriors who not only traded but protected convoys and even mounted paramilitary actions.

5 **Legal Mechanism:** Guilds had internal courts with meeting mechanisms and protocols regarding public deletion of records.

6 3. Delhi Sultanate and Mughal Era As the temple economies collapsed with advent of Delhi sultanate and Mughal rule, proto-JVs or guilds gained foreign recognition. The Anjuvannam guild of Tamil Nadu had new members from Persia, Jews and other Arabic countries. Hence, proto-JVs of India gained a world popularity.

Legal Mechanism: These guilds were recognized by royal charters from the ruler which gave them rights such as leasing land, exemption from taxes, judicial autonomy etc.

7 Therefore, we witnessed how guilds which were proto-JVs existed in the Indian landscape. It must be noted that the term JV

was coined in late 1800s. Till then, various JV-like structures operated effectively and efficiently in India. However, there was no single regulation which regulated these JVs. Different kings imposed different ways of regulating it. Then, how did the modern laws come into picture? Let's dive deeper! Legal Evolution Pre-Independence Legislations: Indian Companies Act, 1913 (ICA, 1913) ICA, 1913 was a classic example of a colorable legislation which did not expressly mention the word 'JV' but facilitated creation of British-Indian companies. However, the actual purpose was to create a familiar legal structure for Britishers to enable easy entry and exit into Indian markets while suppressing Indian businesses like Tata, Birla etc. Any business which was to be setup required government approval. Hence, any business backed by Englishmen had quick approvals and easy business. (Ray, 1979) Post independence, India never had a separate legislation to regulate JVs separately. JVs were rather regulated by a framework of legislations. For ease of understanding, let us bifurcate post independence period into 2 parts- 1. Early Legislative Controls (1947-1990) 2. Modern Legal Framework (1991-2025) Part 1: Early Legislative Controls Early legislative controls had a framework which put high restrictions on businesses in regard to industries in which private players could enter, formation of companies, foreign funding etc. Government's objective was to protect Indian economy from capitalization and foreign control. From JV perspective, 4 laws majorly regulated the JV atmosphere in India- A) Companies Act, 1956 Companies Act, 1956, even though did not mention the word 'joint venture', it allowed formation of a contractual JV (A JV which can exist through a contract) as well as equity JV (Where 2 or more companies incorporate a company by holding equity in the new company) Some of the key sections which regulated JVs were- • Section 372: Section 372 regulated intercorporate investments. This section was specifically relevant for equity JV as it prohibited investment by any corporate beyond prescribed limit without shareholder's approval and in some case, government approval as well. : The prescribed limit was lower of the following-

a) 30% of investing company's paid-up share capital and free reserves OR b) 30% of investee company's paid-up share capital. • Section 591-602: These set of sections regulated foreign companies operating in India. These sections dealt with disclosure requirements which were much similar to present day Companies Act, 2013. B) Foreign Exchange Regulation Act, 1973 (FERA, 1973) FERA, 1973 controlled all foreign exchange transactions and foreign ownerships which includes JV. Some of the key sections were- • Section 29: It prohibited any foreign company to operate in India in any form before RBI approval. Hence, it discouraged foreign partners to form JVs in India. • Section 19: This section restricted foreign players to purchase any immovable property like land in India. Additionally, if any foreign partner wanted to any land on lease for more than 5 years, it required RBI approval. Hence, in a JV if a foreign partner effectively controlled immovable property, even though legally owned by Indian partner, it was prohibited. • Section 20: This section mandated foreign companies to acquire shares in Indian companies after RBI approval. The intention was to limit foreign holding in Indian companies by capping foreign investments into slabs 26%, 41% and 51%. Hence, no JV having foreign partner could exist in India without prior approval of RBI. These sections along with other sections like section 9 which payments to foreign partners and section 47 which gave RBI authority to issue directions made existence of JV with foreign partners a tedious and cumbersome process. However, local JVs did not face an impact of FERA, 1973. C) Industries (Development and Regulation) Act 1951 (IDRA, 1951) IDRA, 1951 played a central in shaping India's industrial environment as it mandated for requirement of a license for any industry which wanted to operate and expand in any sector mentioned in the schedule which included iron, steel, pharma etc. It was applicable on JVs, whether it was a domestic JV or foreign JV. Other acts such as Import and Export (Control) Act regulated imports and exports in country. It prescribed that JVs had to obtain import

license for capital goods and technology, required government approval for technical collaboration agreements etc. Part 2: Modern Legal Framework Unlike other laws which were highly centralized and exercised control over companies, modern legal framework focus on decentralization, pro-competition and self-governance-

A) Companies Act, 2013⁸ It is the primary legislation which governs JVs formed as companies. On one hand, it provides for a greater disclosure by mandating disclosure of consolidated financial statements of JVs along with parent company, disclosure in board report about performance of JVs and disclosure of interest in JVs by directors, on the other hand it regulates transactions such as-

- Related party transactions by mandating prior approval of shareholders/board before entering into one.
- Prohibiting loans to directors and entities in which directors are interested including JV.

B) Foreign Exchange Management Act, 1999 (FEMA, 1999) FEMA is an advanced version of FERA, 1973 but focusses on management rather than control. Unlike FERA, 1973 which was of criminal nature, FEMA, 1999 is of civil nature. It promotes formation of JVs by allowing almost all JVs to setup under automatic route which does not require RBI approval. Additionally, it has allowed upto 100% FDI without RBI approval in almost all sectors except sectors like atomic energy etc. Transfer of technology is also permitted without RBI approval.

C) Indian Contract act, 1872 This legislation is the basis of existence of JV in India as it governs formation, validity and enforceability of JV agreements in India. A JV is essentially a contract, hence governed by section 10 prescribing essentials of agreement like free consent, lawful object etc. section 23-24 ensures its legal purpose and section 73 to 75 provides remedies for its breach. This act ensures that JV is legally binding by giving legal protection to rights and liabilities.

D) Competition Act, 2002¹⁰ This act regulates any combination of two or more entities by giving monetary threshold limits which if crossed, the combination had to be approved by Competition Commission of India. It ensures no monopolistic markets are created in India. Other acts like Income tax act, 1961, Securities and Exchange Board of India Regulations also govern

joint ventures in India which govern the taxation aspect as well as JV formed in the form of listed entities respectively.

CONCLUSION India has successfully nurtured JV environment by providing a legal framework which balances between investor protection, regulatory requirements and business autonomy. On one hand, the current legal framework enables smooth formation, operation and termination of JVs. Landmark case study of Hero Honda¹¹, a JV between Hero Group and Honda Motor Company is a living example. Hero Honda was established in 1984 as a JV where 26% stake was held by Honda. It went on to become largest two-wheeler manufacturer of the world. However, in 2010, both the parties amicably terminated the JV by Hero acquiring 26% stake from Honda, without a single dispute. While Indian legal framework provides an amicable environment, the Indian courts and tribunals have sufficient tools to ensure dispute resolution. The case law of McDonald's India Private Limited Vs Vikram Bakshi¹² is standing example of same. Both the mentioned parties formed an equity JV named Connaught Plaza Restaurants Limited (CPRL) in 1995. Pursuant to a small conflict, Bakshi was ousted as Managing Director of CPRL. The dispute was later resolved through NCLT which ordered McDonalds to buy entire stake of Vikram Bakshi and JV was terminated. However, as India cements its global corporate environment, there is a need to introduce JV specific laws or rules, like that in Germany, which will streamline compliance and foster foreign collaborations, bolstering business friendly environment.

TRANSPARENCY IN CORPORATE REPORTS UNDER INDIAN LAWS

Rishita Thakkar

Introduction Hello everyone. So, as you can see my topic for Article Writing is Transparency in Corporate Reports under Indian Laws. This has been a very interesting topic under discussion over the years. There have been various laws made and amended for the same. In a corporate environment, transparency means openly sharing information, decisions, and processes with stakeholders, including employees, customers, and investors. It also means to truthfully showing all the achievements and also any mistake or challenges faced by the corporation. Transparency in the reports help the investors properly analyse the true position of the company and make an informed decision regarding their investment. Corporate reports include any kind of financial and non-financial information that is shared by the corporations with the stakeholders. Transparency in the reports is termed as very crucial as the same increases accountability and responsibility in the company and its officers, while at the same time providing a safe environment for the investors. Over the years there is a development in the governance of transparency of the companies also and now there are organizations and professionals specifically appointed for overlooking the compliance under all the laws by the companies and other corporations. The people also have become aware of the proper regulations for the same look for the companies which are showing their true performance in the market hence creating a sense of creditability over the organizations. A peek through History One of the first attempts to deny stockholders access to the records of their company occurred during 1633. After a decline in the fortunes of the East India Company, some stockholders moved for the appointment of a committee of inspectors. During, 1841 a Select Committee was requested to inquire into the State of the Laws respecting Joint Stock Companies with a view to the greater security of the public in Great Britain.

The 1844 Report was followed by the first general Companies Act; the Joint Stock Companies Act 1844 which provided for the institution of the Office of the Registrar of Joint Stock Companies. Documentary information relating to companies to be kept for public inspection; The preparation and delivery of "full and fair" audited balance sheets and the auditors reports thereon to all shareholders was done. It was after the Great Depression of 1929 that substantial changes were brought in. The English Companies Act of 1929 served as the foundation for Felix Frankfurter and his team in drafting the Securities Act of 1933. Importantly, the 1929 Act was the source of two major components of the current American securities regulation regime, the concept of full disclosure and the possibility of civil liabilities of the registrant, its officers, directors, and experts. Thus, later on after several amendments; The first comprehensive law governing disclosure in corporate reports in India was The Companies Act, 1956. It established a broad framework for disclosure requirements in annual corporate reports. Back To Present. In present times, Indian corporate law emphasizes transparency in corporate reports through various mandates, including those under the Companies Act, 2013, and related regulations. These requirements aim to ensure stakeholders, such as shareholders and the public, have access to crucial information about a company's financial status, transactions, and related-party dealings. Key Aspects of Transparency in Corporate Reporting in India: 1. Financial Reporting: Companies are required to disclose financial statements, transactions, and related-party dealings in detail to ensure transparency to shareholders and the public. 2. Risk Factors: The Companies Act mandates disclosure of potential risks that may impact a company's business, promoting proactive

risk management. 3. Corporate Governance: Reports outlining board composition, executive compensation, and other governance-related information are required to enhance accountability and transparency in corporate decisionmaking. 4. Sustainability and CSR: Companies need to disclose their sustainability and corporate social responsibility (CSR) policies, activities, and expenditures, promoting transparency in these areas. 5. Regular Reporting: Quarterly and annual reports provide stakeholders with regular updates on a company's financial performance and position. 6. Beneficial Ownership: The Companies (Amendment) Act, 2019, introduced requirements for identifying significant beneficial owners (SBOs) in companies, aiming to improve transparency in ownership structures. 7. Audit Committees and Audits: The Act also mandates the establishment of audit committees and regular audits to enhance accountability in financial reporting. And much other things that showcase the importance of transparency in corporate reports in Indian Laws. Case Law: A significant landmark in promoting transparency in corporate reporting emerged from the aftermath of major corporate scandals like Enron and WorldCom in the early 2000s. Key elements of the scandal:

- Fraudulent accounting practices: Enron employed unethical and fraudulent accounting methods, primarily abusing mark-to-market accounting and using special purpose entities (SPEs) to inflate profits and conceal billions of dollars in debt from failed ventures.
- Lack of transparency and oversight: The company's complex financial statements were deliberately confusing to hide its financial issues from investors and analysts, while its board and audit committee failed to provide adequate oversight.
- Whistleblower: Sherron Watkins, a vice president at Enron, alerted CEO Kenneth Lay to the accounting irregularities before the scandal became public, though her warnings were initially ignored. Her actions later inspired stronger whistleblower protections under the Sarbanes-Oxley Act. The Sarbanes-Oxley Act (SOX), enacted in 2002, is considered a landmark legislation that aimed to restore public confidence in the US capital markets by strengthening corporate governance, financial

transparency, and accountability. SOX mandated several changes to corporate practices, including:

- Establishing the Public Company Accounting Oversight Board (PCAOB): The PCAOB oversees the audits of public companies to ensure the reliability of financial disclosures and reduce the risk of fraud.
- Holding Executives Accountable: SOX requires CEOs and CFOs to personally certify the accuracy of financial reports, increasing their responsibility for the integrity of financial reporting.
- Strengthening Internal Controls: Companies are mandated to establish and maintain robust internal controls over financial reporting, which are independently assessed to prevent errors and fraud.
- Enhancing Financial Disclosure: SOX increased reporting requirements for financial transactions, including off-balance sheet transactions and insider trading, according to SailPoint.
- Providing Whistleblower Protections: The Act protects employees and contractors who report fraudulent activity from retaliation, encouraging transparency and accountability within organizations.

Consequences of Non-Disclosure or Improper Disclosure in Corporate Reports In India, failing to disclose required information in corporate reports can lead to significant penalties, including financial fines, loss of investor confidence, and even legal action. Companies and their officers who default on disclosure requirements face penalties under the Companies Act, 2013, and SEBI regulations. The consequences are as follows:

- Financial Penalties: The Companies Act, 2013, prescribes penalties for non-disclosure, which can range from ₹50,000 to ₹5 lakhs for companies, and ₹50,000 for defaulting officers.
- Loss of Investor Confidence: Non-disclosure of material information can negatively impact investor confidence, potentially leading to the suspension or cancellation of securities trading.
- Legal Action: Non-compliance can lead to show-cause notices and further penal actions from regulatory bodies like the Registrar of Companies (ROC) or the Securities and Exchange Board of India (SEBI).
- Reputational Damage: Publicity surrounding non-disclosure can harm a company's

reputation, potentially affecting future business opportunities and investor relations. • Impact on Trading: Suspension or cancellation of securities trading can significantly impact a company's market value and liquidity. • Increased Capital Costs: Loss of investor confidence can make it more expensive for a company to raise capital in the future. • Specific Penalties: • For example, non-disclosure of dues payable to Micro, Small, and Medium Enterprises (MSMEs) can lead to penalties under the MSME Development Act, 2006, and the Companies Act, 2013.

Importance Of Disclosure In India, disclosure in corporate reports is vital for ensuring transparency, accountability, and informed decision-making by stakeholders. It helps build trust, facilitates regulatory compliance, and promotes a fair and efficient market environment. Importance of Disclosure in Corporate Reports: ➤ Transparency and Trust: Disclosures enhance transparency in a company's operations, building trust among investors, regulators, and the public. ➤ Informed Decision-Making: Stakeholders rely on disclosures to make informed decisions about investments, lending, and other business dealings.

➤ Regulatory Compliance: Companies are legally obligated to disclose specific information under various laws and regulations, such as the Companies Act, 2013, and SEBI regulations. ➤ Good Governance: Disclosures contribute to good corporate governance by ensuring accountability and promoting ethical behaviour. ➤ Risk Management: Disclosures help identify and manage potential risks by providing insights into a company's operations, financial health, and governance practices. ➤ Investor Protection: Disclosures protect investors by providing them with the necessary information to assess a company's performance and make informed investment decisions. ➤ Market Efficiency: Adequate and timely disclosures contribute to a more efficient and fair market by reducing information asymmetry and promoting competition. ➤ Stakeholder Engagement: Transparent disclosures facilitate better communication and engagement with all stakeholders, including employees, customers, and the community. Conclusion In conclusion the disclosure by the companies in corporate reports under Indian Laws, the disclosure is very important aspects that helps the company

increase their creditability in the market and also increase the accountability and responsibilities among the officers and the company. Proper disclosure among all the types of reports will help the companies achieve long term growth and sustainability by gaining the trust of the investors. Thus, creating a secured environment for the investors, lesser chances of fraud, increase in profits for the company and increase of awareness in the market again frauds and improper practices.

THE ROLE OF THE SECURITIES APPELLATE TRIBUNAL IN RESOLVING CORPORATE DISPUTES

INTRODUCTION On 24th of May, 2024, The Economic Times reported that India's market capitalisation had crossed the 5 trillion Dollar milestone, building to about 420.22 lakh crores placing India behind U.S., China, Japan, and Hong Kong. This statement itself gives a sense of market sentiment and also emphasizes the importance of regulatory authorities including SAT, SEBI, and other financial regulators. Securities Appellate Tribunal (SAT) being one of them, plays a significant role in the Securities Market. Section 15K of the SEBI Act empowered the Central Government to establish a tribunal; to be known as SAT. Accordingly, it was established in the year 1992 having an Appellate jurisdiction. It is a statutory body established to hear appeals against the orders passed by the Securities and Exchange Board of India (SEBI) and other regulators like IRDAI, PFRDA etc. It was created to provide a platform for investors and other market participants to challenge regulatory decisions, ensuring fairness and accountability in the securities market. It provides a specialised and efficient mechanism for resolving disputes arising from the securities market and to ensure investor protection. They offer an alternative to the regular court system, often handling cases more quickly and with expertise in securities law.

COMPOSITION OF SAT The Securities Appellate Tribunal consists of a Presiding officer and specified number of Judicial and Technical members as the Central Government may determine, to exercise the powers and discharge the functions conferred on it. Subject to the provisions of SEBI Act: ☐ The jurisdiction of SAT may be exercised by its Benches. A Bench may be constituted by the Presiding officer of the SAT with two or more Judicial or Technical Members as he may deem fit. However, every Bench constituted shall include at least one Judicial Member and one Technical member. The Benches of the SAT shall ordinarily sit at Mumbai and places notified by Central Government in consultation with the

Presiding Officer

APPEAL TO THE SECURITIES APPELLATE TRIBUNAL

- 1) Any person aggrieved by an order of the SEBI or the IRDAI or the PFRDA may prefer an appeal to the SAT.
- 2) The appeal shall be filed within a period of 45 days from the date of receipt of the order made by the respective authority.
- 3) On receipt of appeal and after giving the parties an opportunity of being heard, SAT may pass an order of: a) Confirming; b) Modifying; or c) Setting aside the order appealed against.
- 4) However, the SAT may entertain an appeal after the expiry of 45 days after considering sufficient cause for not filing the same.
- 5) Every appeal filed before SAT shall be disposed of within 6 months from the date of receipt of appeal. According to Rule 4 of the Securities Appellate Tribunal (Procedure) Rules, 2000 a Memorandum of Appeal shall be presented in the prescribed form by the aggrieved person to the Appellate Tribunal.

POWERS OF SAT The Securities Appellate Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 for discharging their functions, namely: i. Summoning and enforcing the attendance of any person and examining him on oath; ii. Requiring the discovery and production of documents; iii. Receiving evidence on affidavits; iv. Issuing commissions for the examination of witnesses or documents; v. Reviewing its decisions; vi. Any other matter which may be prescribed. However, according to the Section 15U of SEBI Act, the SAT shall not be bound by the procedure laid down by the CPC, 1908. Instead, it shall be guided by the principles of natural justice and subject to any other rules or provisions, shall have powers to regulate their own procedure.

ROLE OF SAT It can be anticipated from the establishment of SAT that the role of this authority is not limited to hearing appeals against various regulatory authorities, but

also: Ensuring Regulatory supervision and Fairness- SAT acts as a referee ensuring that in a dog-eat-dog world of Finance, all stakeholders play by the rules. It has kept pace with the evolving game, as our markets and businesses become more complex and new regulations flood in. [Securities Appellate Tribunal, Inauguration speech of CJI DY Chanrachud, (13th July 2025)] Enhancing Investor Confidence- As an independent appellate body, the SAT increases confidence in the fairness and transparency of the securities market. Its role in reviewing and potentially modifying regulatory orders provide a mechanism for investors to seek redressal. Upholding Market Integrity- By allowing appeals of regulatory decisions, the SAT contributes to the integrity of the securities market. Its quasi-judicial function ensures that regulatory orders are scrutinised, reducing the possibility of arbitrary actions. Some of the key judgements of SAT are as follows: Appeal no. 550 of 2022- Dalhousie Holdings Ltd. v. SEBI and Ors. Background The Case involves an appeal by Dalhousie Holdings Ltd. ("Dalhousie") against SEBI in relation to the disposal of a complaint made by it on SCORES. The complaint was in relation to alleged non-disclosures under SEBI regulations by the acquirers of Dalhousie. Arguments Appellant's contention: SEBI did not adequately address their complaint. They contended that SEBI's response, which had only attached the company's reply, without any reasoning, demonstrated a lack of due consideration and application of mind by SEBI. SEBI's contention: The complaint primarily pertained to non-response from the company, hence, the response was provided. Additionally, SEBI stated that the Appellant was engaging in forum shopping since similar issues were pending before the NCLT. Findings SAT held that reasons, however brief, must be given while disposing of the complaint on the SCORES platform. Merely attaching the company's reply tantamount to non-application of mind. It refers to the practice of strategically choosing a court or tribunal perceived to be more favourable, often with the goal of obtaining a more advantageous outcome. Accordingly, the appeal was allowed and the impugned order passed by SEBI was set aside. Appeal no. 406 of 2020- Gurmeet

Singh v. SEBI Background SAT dealt with a batch Appeals where SEBI imposed penalties on the Appellants for inter alia inadequate disclosures made in relation to the issuance of Global Depository Receipts ("GDR"). Certain penalties were imposed on directors on the basis that they had signed the resolution authorising the Managing Director raise monies pursuant to the GDR. Arguments Appellant's contention: Merely being signatories to a resolution authorising the managing director is not adequate to allege fraud. SEBI's contention: The directors who signed the resolution facilitated the execution of fraudulent scheme. Findings SAT inter alia held that the only person liable was the managing director since he was involved in the day-to-day affairs of the company. SAT also held that merely being signatories to a resolution is not sufficient to allege fraud. Hence, the directors who had signed the resolution were exonerated. Appeal no. 245 of 2019- Kaynet Capital Ltd. v BSE And Anr. Background SAT was dealing with a matter where the appellant contended that the order of the exchange was passed by a person who had no authority to pass the suspension order. Arguments Appellant's contention: The impugned order was illegal, as it was issued by a Deputy General Manager, who lacked the authority to do so under the relevant rules, which only empower the Managing Director or the relevant authority to pass such orders. Stock exchange's contention: The stock exchange contended that the decision to suspend the trading terminal was taken by the competent authority, merely approving the recommendation does not mean that the managing director gave any opinion/ reasons and the circumstances as to why it was necessary to pass the impugned order. Accordingly, the appeal was allowed. [Shardul Amarchand Mangaldas & Co., SAT's Key Judgements : 2019 to 2024, I, SAT Updates, 2,8,11 (2024)] RECENT RULING OF SAT On 5th May 2025, SAT in V. Shankar v. SEBI addressed a critical and controversial question: Can a compliance officer be held personally liable

for fraudulent disclosures and statutory violations committed by the Board of Directors of a listed company? The SAT judgement in V. Shankar highlights the doctrinal rift with SEBI's attempts to impose strict or absolute liability on compliance officers. While SEBI treats compliance officers as gatekeepers with quasi-managerial obligations, the SAT asserts a boundary: ministerial acts do not automatically translate into liability, and compliance personnel cannot be presumed to function as auditors or directors. It has repeatedly emphasized that compliance officers and Company Secretaries should not be held liable for disclosures lapses or misstatements unless there is concrete evidence of with the expansive liability view taken by SEBI. It remains to be seen what the final jurisprudential word on this question from the apex court will be. [Aadya Narain, Ministerial, Not Managerial: SAT limits Compliance Officer Liability in V. Shankar, (2025)]

CONCLUSION The stances stated in the study boils down to the basic fundamentals of the judicial process, i.e., Fairness for everyone involved in the process. This makes the investors feel assured that their investments are protected by law and that there are effective mechanisms for dispute resolution. They are more likely to invest in the country's market which in turn will be beneficial for the country and its people

THE FUTURE OF CORPORATE LAW IN THE ERA OF DIGITAL DISRUPTION IN INDIA

Saloni Gupta

"AI is like a brilliant but unpredictable teenager, full of potential, but still learning the rules. The Indian legal system must develop and govern such technologies responsibly with increasing awareness in respect to the importance of Digital privacy." — Justice Manmohan, Supreme Court of India

1 INTRODUCTION Remember Covid-19? Obviously, we all do. It has brought a revolution and a paradigm shift in relation and use of technology in respect to the practical aspect of implementation of law. Is digitalisation turning out to be in our favour? However, before exploring about that let's first understand what we understand about the terms "corporate law" and "digitalisation" and "digital disruption" In the First instance, we will come to the conclusion that Corporate Law means Company Law but my fellow readers that's not it.. corporate law has a wide scope and includes not merely Company Law but arena of other laws like Securities related Laws, Corporate Governance related Norms (Policies and Regulations), Mergers & Acquisitions related Laws, Competition related Laws, Intellectual Property related Laws and so on. Tapscott & Caston (Authors on Digital Economy) "Digitalization is a process which involves transforming existing business process(es), models, and customer interactions using digital technologies viz., AI, blockchain, and cloud computing and E- governance etc. Digital Disruption means interruptions caused by evolution of Digital technology like machine learning, Artificial intelligence, AI-Tools, Cloud Computing etc. Overwhelming, Isn't it? I also thought so. Let's keep the focus on impact of digitalisation exploring Company Law, Corporate Governance and The Digital Personal Data Protection Act, 2023 (DPDP Act, 2023).

EVOLUTION

1. Indian corporate Law emerged from English laws back in colonial times. 2. Gradual development of Indian Corporate laws addressed importance of stakeholders. 3. Later, during post independence reforms in India, the Indian legal system moved towards a self

dependent system of law. 4. After Enforcement of Companies Act, 2013, on recommendations stated by the J.J. Irani Committee, chaired by Dr. Jamshed J. with the motive to simplify and update the then Companies Act, 1956, new concepts emerged like shareholders Democracy, corporate governance and stricter enforceability in compliance structure. 5. After 2015, corporate law moves towards inculcation of digitalisation via introduction of MCA-21 Portal in phases from 2023-2025 leading to real-time fillings, automated XBRL Fillings, improved E- Payments, Enforcement of The Digital Personal Data Protection Act, 2023, with proposing Draft Digital Competition Bill in March 2024.

PRESENT TREND

1. Digitalization in manner of Compliances Anyone is interested in long queues in order to do fillings and that to different departments depending on the nature of it? No... right? We got you, The Government of India via its MCA Portal introduced the concept of digital platform with the aim to bring digitalization in the reporting framework. With the advancements, MCA has launched its V3 portal which facilitates STP ("Straight Through Processing") Form Fillings, tracking of compliance Status, reminders through use of compliance management tools like ComplyRelax, Company Mantra etc. 2. Meetings As per Companies Act, 2013, SS-1 and SS-2, meetings were held physically except for certain cases where the virtual board meeting was allowed. However, after COVID-19 outbreak the ambit of virtual meetings widens with removing the barrier imposed due to limited applicability of virtual meetings. 4 3. E- Governance MCA established the Centre for Processing Accelerated Corporate Exit (C-PACE), which was launched on 1st May 2023 by Shri R.K. Dalmia, Director, Inspection & Investigation,

MCA. Shri Harihara Sahoo, ICLS, has been appointed as first Registrar of the office of C-PACE. The C-PACE office works under the supervision of the Director General of Corporate Affairs. (DGCoA), New Delhi.⁵ The objectives of above were to centralize and streamline the voluntary winding-up and striking off of companies and Limited Liability Partnerships to contribute towards Ease of Doing Business. 4. E-Adjudication MCA-21 PORTAL launched the E-adjudication module on 16th September 2024 which instates digitalization in proceedings shifting from manual to digital platform. For instance MCA V3 Portal provides a platform to issue SCN, responses, document submissions, hearings, orders. etc. Environmental Social & Governance (ESG) How about a real life example? Infosys was among the early adopters of BRSR and Integrated Reporting through digital tools like AI and blockchain with the aim to enhance effectiveness and efficiency of ESG governance and reporting.⁷ CHALLENGES AHEAD With increasing inculcation of digitalisation in corporate law and governance, we should be prepared for challenges ahead in future. Some are mentioned hereunder: 1. Regulatory action Lag RBI issued prohibitions to Paytm Payment Bank with respect to acceptance of deposits, including wallets, FASTag, IMPS w.e.f. February 29, 2024 due to non compliance as per audit and compliance report. This shows that there is a need to bring strong measures, regulations, laws in order to keep up with digitalization in fintech banking models.⁸ Further India is at nascent stage in respect to AI, Crypto, Smart Contracts etc.⁹ 2. Corporate Accountability The DPDPA 2023, explains corporate responsibility towards compliance with maintaining privacy with respect to digital data obtained in the course of business or otherwise penalised under the Act.¹⁰ 3. Cyber Security As more and more information is stored and transmitted electronically, the risk of data breaches, hacking, and other forms of cybercrime increases. This can have serious consequences for companies, including loss of sensitive information, damage to reputation, and financial losses.¹¹ RECOMMENDATIONS 1. India's laws must adapt to new digital finance technologies like fintech. As digital payments and online banking grow fast, legal rules need to keep

pace to protect users, ensure security, and support innovation, so the financial system remains safe and trustworthy for everyone. 12 2. Digital India Act Necessary as IT Act Is Over Two Decades Old: Chandrasekaran¹³ 3. Law firms need to rethink strategies by adopting AI technologies, focusing on innovation and strong governance to improve efficiency, maintain ethical standards, and stay competitive in the evolving legal landscape. CASES 1. Justice K.S. Puttaswamy (Retd.) v. Union of India MANU/SC/1044/2017 "The landmark ruling in Justice K.S. Puttaswamy (Retd.) v. Union of India (MANU/SC/1044/2017), SC recognised the right to privacy as a fundamental right under Article 21 of the Constitution of India. This decision laid the foundation for India's modern data protection framework, including The Digital Personal Data Protection Act, 2023. In the coming years, corporate governance and compliance will increasingly hinge on responsible data processing and digital privacy safeguards." 2. Internet and Mobile Association of India v. Reserve Bank of India MANU/SC/0259/2020 "In Internet and Mobile Association of India v. RBI (MANU/SC/0259/2020), the Supreme Court struck down the RBI's ban on virtual currencies, emphasising that any regulatory action must be proportionate and reasonable. This illustrates how courts balance innovation and risk in the digital economy. As blockchain, virtual currencies, and decentralised finance evolve, corporate law will need to create a robust regulatory framework for emerging digital asset classes." 3. Google LLC v. Competition Commission of India MANU/NC/0024/2023 In Google LLC v. Competition Commission of India (MANU/NC/0024/2023), the National Company Law Appellate Tribunal, a two-member bench upheld the penalties against Google for abusing its dominant position in the Android ecosystem as per Section 4 of Competition Act, 2002. This showcases that future corporate law must address platform neutrality, fair competition, and the conduct of big technology companies in India's rapidly expanding digital markets."

4. HDFC Bank Ltd. v. Jyoti Rathi MANU/CF/0357/2015 "As businesses digitise their operations, they face increasing exposure to cyber fraud and digital crime. In HDFC Bank Ltd. v. Jyoti Rathi (MANU/CF/0357/2015), the National Consumer Disputes Redressal Commission held the bank liable for failing to prevent phishing fraud. This case underscores the growing duty of corporations to strengthen cyber security, protect consumer data, and build robust risk management systems." 5. M/s Trimex International FZE Ltd. v. Vedanta Aluminium Ltd. MANU/SC/0023/2010 "The Supreme Court in M/s Trimex International FZE Ltd. v. Vedanta Aluminium Ltd. (MANU/SC/0023/2010) held that commercial contracts concluded through e-mails are legally binding. This illustrates how the nature of corporate transactions is being transformed by digital communication, prompting the need for clear legal standards around electronic contracts and digitally negotiated agreements."

DEVELOPMENTS & FUTURE EXPECTATIONS - A GLIMPSE

1. Introduction of Digital Competition Bill¹⁵
2. Modernization In Company Law with motive to Modernization of Companies Act to enhance compliance efficiency and streamline reporting requirements for digitally driven firms.
3. The IndiaAI Safety Institute, launched by MeitY in January 2025, sets ethical and technical standards for AI in India which guides responsible use of AI with motive to ensure accountability, responsibility, and transparency. The institute plays an important role in shaping corporate AI-Practices, especially concerning competition and governance in the digital economy.¹⁶

CONCLUSION The future of corporate law in India is all ready for a rapid transformation which is driven by a rapid digital disruption. As technology redefines the business landscapes, legal frameworks must also evolve so that it can ensure a contemporary governance along with data privacy, and cyber security which will balance innovation with accountability. The introduction of digital tools in compliance, virtual meetings, and e-governance, signals in the direction of a progressive shift towards efficiency and transparency. However, challenges which include regulatory lag, cybersecurity risks, and the need for updated laws like the Digital Competition Bill

still remain extremely critical and urgent. Landmark judgments have laid foundation for the growing importance of digital privacy and a fair competition in the corporate world. India's continuous steps, including the launch of the IndiaAI Safety Institute have marked a commitment to a responsible technology use. Ultimately, the Indian legal system must understand how to embrace this digital future with a swift foresight, modulating laws that not only keep the pace with innovation but also make sure that the rights of all stakeholders are secure. In this era of digital disruption, corporate law is not only just adapting, but it is completely reinventing itself for the upcoming challenges.

REGULATION OF CORPORATE LOBBYING IN INDIA: LEGAL FRAMEWORK AND CHALLENGES

Shravani Susheel

The Unseen Hand "Real lobbying reform must end the practice of corporate lobbyists writing our laws. " as quoted by Marty Meehan¹. The article throws light upon the regulation of Corporate Lobbying in India. The constant growth of lobbying by the corporations has raised several crucial questions outlining its ethical, legal, social and political spheres. I would request the reader to stay glued because, by the end of this article you will be acquainted with unknown history, facts of Corporate Lobbying and the framework that regulates it and the strategies to overcome the challenges. Corporate lobbying refers to the practice where companies and their representatives attempt to influence government officials and policies to benefit the corporation's interests. Late Arun Jaitley, the then political leader stated "Lobbying is the art of persuading a government to come to a particular decision"². (Shreyaskar, 2024) In short, the corporate giants with substantial resources at the stake of their profits, invest heavily in lobbying as a result of this the voices of small businesses, advocacy groups, general public automatically gets overshadowed. Lobbying is an act that negatively affects the business environment both internally and externally. The market participants other than the lobbyists may either be affected constructively or it can hinder their growth. This opaque environment fosters concerns about ethical conduct, fair competition, and the very integrity of democratic decision making. Corporate lobbying is the process where the corporations undertake strategic efforts to influence government decisions, laws, or policies to Favor their business interests. This process typically involves direct or indirect engagement with lawmakers - The Parliament, The Regulatory Authorities - SEBI, RBI, IRDAI, IBBI, PFRDA, and The Public Officials - The President, The Governor, Judges. . Companies may conduct lobbying through professionals, industry associations, legal advisors, or in-house public affairs teams.

The concept of corporate lobbying has its roots in informal interactions between businesses and policymakers, often involving personal relationships and networks. Hereafter we will learn about the corporate lobbying regulation in India. The Indian landscape of corporate lobbying is increasing prevalently with the strategy of engaging with the Government officials and policymakers. Industrial associations an aid of lobbying, with growing variety of business entities, the industry associations such as Maharashtra Chamber of commerce, Bombay Industries Association, the Small-Scale Industries Association and many more, with the help of experts whether internal to the entity or external have become the prominent players in the market of lobbying. Lobbying in India is a growing but a largely unregulated business practice. Lobbying can be practiced with the help of such efforts which include sponsoring research, campaign financing, CSR etc. The primary objectives of corporate lobbying include:

- Shaping legislation and regulations
 - Gaining competitive advantages
 - Securing government contracts or subsidies
 - Preventing or amending laws that may negatively impact business
- India has not enforced any formal law that defines or regulates lobbying unlike United States or several European countries. Corporate lobbying in India can conceptually be cleared by understanding the Vijay Mallya Pattern which is as following- Former liquor baron Vijay Mallya, fugitive economic offender took lobbying to a new level by taking the high and mighty on weekend binges. His private jets were tweaked to accommodate bureaucrats, politicians and influential persons, all given seven-star accommodation³. (Ray, 2023) Niira Radia (pov- if corporate lobbying had a face) is a former corporate lobbyist whose taped

telephone conversations implicated her influence in the allocation of key ministries in the Government of India in 2009. The Radia Tapes controversy 2010 is still resonating in public memory. 4 Walmart lobbying in India 2012⁵⁶– Walmart lobbying in India this case is of the global retail giant Walmart; it had disclosed in its routine US lobbying report that it has spent over millions of dollars since 2008 on lobbying activities to enhance market access for investment in India. This came, when the Indian government was considering the the permit of FDI in multi brand retail, the allegations of the impact happened by this lobbying could be understood by the disclosure that sparked a major political controversy in India. With opposition parties, accusing Walmart of bribing and thereby demanding an investigation, the incident highlighted the lack of transparency in Indian lobbying, and the perception that such activities could be a euphemism for unethical practices. Corporate Lobbying is an act that functions on the lines of unethical behaviour. This act impacts the democracy both directly and indirectly. Direct communication with the Government officials or Public affairs Department, influencing the public opinion, political donations and Revolving Door⁷⁸ are the few ways through which corporate lobbying can be exercised. With no surprise regulating the corporate lobbying is challenging for the authorities. Let's dive into some of the challenges occurring because of corporate lobbying– 1 » Lack of transparency: Since India lacks a comprehensive legal framework to regulate lobbying activities, it makes it difficult to track who is influencing policy decisions and in which manner. This lack of transparency raises concerns about fairness and accountability in the policy-making process. Unless true and fair picture is visible the business will not be considered transparent, and ethical. 2 » Potential for corruption: Lobbying initiates an open ground of corruption generally referred to as abuse of entrusted power for private gain. 3 » Erosion of public trust: Excessive lobbying can erode public trust in the government's ability to run the economy and formulate policies that serve public interests. This erosion can have long term consequences on

the stability and functioning of Democratic society. 4 » Inequality and Unfair Influence: This could be one of the primary criticisms faced by lobbyists that they exert unequal influence. Well- heeled lobbyists representing corporate giants often gain privileged access to policymakers as compared to the low paid. 5 » Weakness in regulatory oversight: The close relationships between the lobbyists and the Government officials can lead to weaknesses in regulatory oversight, the regulatory bodies become lenient, potentially jeopardizing public interests and environmental sustainability. A look on one of the challenging situation that has been a spotlight recently will be helpful for the reader to comprehend Corporate lobbying – A CORPORATE LOBBY SWAYED CENTRE'S DECISION WHILE ITS MEMBERS FILLER BJP'S COFFERS ~ Over the years the Association of Power producers got government to make favourable policy changes while its members and entities linked to them together donated at least Rs 516 crores to BJP a.k.a Electoral Bonds case . The influential members that this report talks about are the 20 odd private companies, which include Adani Group, Vedanta Group, RP Sanjiv Goenka Group and Esaar Group , that make up the lobby. 9 Despite these challenges there have been recurring calls for greater transparency and a formal legal framework. Legal framework for regulating corporate lobbying in India has taken the following shape .Although there exists no specific laws or legal framework that defines and regulates corporate lobbying in India , there are certain laws which indirectly touch upon lobbying practices . Here is a list of laws that indirectly regulate lobbying in India – 1. Prevention of Corruption Act, 1988¹⁰: This is an Act of the Parliament of India which is enacted with the vision to combat corruption in government agencies and public sector businesses in India . The PCA criminalises the acceptance of gratification, other than the acceptance of legal remuneration by public servants, which is paid by their employers in connection with the performance of their duties. 2. Companies Act, 2013: ¹¹The Companies Act indirectly provides for

corporate lobbying by specifying certain limits on corporate political contributions (u/s 182) and also the act has made disclosure of certain transactions mandatory. Similarly, to ensure transparency in the corporate transactions, the companies act provides for formation of audit committee as per section 177, similarly, it also deals with disclosure of related party transactions u/s 188.

3. Institute of Company Secretaries of India, Anti Bribery Code: 12The objective of this anti bribery code is to ensure that neither the company nor any of its employees, directors or authorized representatives indulge in bribery in any of their actions taken for and on behalf of the company, in the course of economic financial or commercial activities of any kind. All agents, associates, consultants, advisers, contractors, subcontracts and suppliers of goods and services representatives and intermediaries engaged by the company shall also be required to follow this code while carrying on the assignments.

Case study of TATA STEEL ~ Compliance of anti-corruption, or anti bribery policy in the company ABAC POLICY - Tata Steel's , ABAC policy is applicable to all individuals working at all levels and grades, including directors, senior managers, senior executives, officers, employees, consultants, contractors, trainees, interns, seconded staff, casual workers and agency staff agents, business partners, service providers, professional associates and other relevant persons, third parties or companies associated with Tata Steel, including those acting on behalf of Tata Steel. As India continues its economic growth and its corporate sector expansion, the influence of corporate lobbying is likely to intensify. Corporate lobbying is an important aspect of a mature policy. However, making India's process. current unregulated environment presents risk of corruption, lack of transparency and public distrust. A structured legal framework that encourages transparent, ethical and balanced engagement can help harness the positive aspect of lobbying, while minimising its misuse. A balanced approach to corporate lobbying requires transparency, ethical standards and mechanisms to ensure that policy making remains fair, inclusive and oriented towards public welfare.

CORPORATE GOVERNANCE IN INDIA: EVOLUTION AND CURRENT CHALLENGES

Shruti Kelkar

Introduction: The concept of Governance is not new in India. This concept is as old as the human civilization. To say in a layman's language governance means the process of decision making and the process by which the decisions are implemented. Governance can be used in various contexts like corporate governance, national governance, international governance, local governance, etc. The concept of good governance dates back to the late 4th and 3rd century BCE. Kautilya put forth four major duties of king i.e. Raksha, Vriddhi, Palana and Yogakshema. If we substitute the king with CEO, the four duties can be implemented in corporate governance too. The corporate governance has undergone a notable transformation over year. So let's dive into the evolution of Indian corporate governance. The Companies Act 1956 provided the legal framework for corporate governance but the enforcement of same was inefficient. After independence the Indian businesses were majorly Family driven and interest of the business were dependent upon the promoters and the interests of minority shareholders were generally neglected. Evolution of Corporate Governance: To strengthen the corporate governance in India, various committees were formed over years which are as follows: A) Desirable Corporate Governance Code: In the year 1996, the confederation of Indian Industries set up a task force with Mr Rahul Bajaj. In the year 1998, the CII released the Corporate Governance Code. The objective of this code was to develop and promote a code for corporate governance and be followed by the companies. B) Kumar Mangalam Birla Committee: In the year 1999 Securities and Exchange Board of India (SEBI), formed Kumar Mangalam Birla Committee. The committee gave recommendation to improve the Corporate Governance for Listed Companies in India. These recommendations were implemented through Clause 49 of listing Agreement which emphasized the role of Independent Directors,

Audit Committee, Director Responsibility and certain website disclosures. 1 C) Naresh Chandra committee: The Naresh Chandra Committee was set up in August 2002 by Ministry of Corporate affairs. The primary need for formation of this committee was due to increasing corporate scandals both nationally and internationally. The committee made recommendation on strengthening corporate governance practices particularly in the area of auditor independence, board structure, internal controls and disclosure norms. The committee also recommended to establish a serious fraud office to investigate serious frauds.2 D) Narayan Murthy Committee: This committee was established in the year 2003. It was set up for reviewing the implementation of corporate governance code by listed entities. The committee's recommendations focused on fairness, accountability, transparency, verifiability of audit committee and its enforcement, audit reports, related party transactions, risk management and code of conduct. E) Clause 49 of the listing agreement: The revised clause 49 of the listing agreement was introduced in the year 2004. The major changes in the revised clause 49 were relating to the definition of Independent directors, strengthening the responsibilities of audit committee, improving quality of financial disclosures, including those of the related party transactions, requiring board to adopt code of conduct. Certain non-mandatory clauses like whistle blower policy. 3 F) J. J. Irani Committee: The Bhabha Committee also known as the 'Company Law Committee' was established in October 1950 to revise the Companies Act 1913. This committee was set up with an objective to consolidate the corporate laws and to provide a new law for independent India. The Companies Act, 1956, has since provided the legal framework for corporate entities in

India. The need for streamlining this Act was felt from time to time as the corporate sector grew in pace with the Indian economy, with as many as 24 amendments taking place since 1956. After all the economic reforms in 1990s India felt a need for new a comprehensive of the Companies Act, 1956. The government therefore established the J. J. Irani committee in the year 2004. This committee was tasked with reviewing and recommending the changes to The Companies Act 2013. The committee's report, submitted in 2005, focused on modernizing the act to align with global practices, enhance corporate governance and promote investor protection. 4 G) Companies Act, 2013: The companies act, 2013 was a landmark event in the evolution on corporate governance in India. The key features of this act were: board composition, audit committee, corporate social responsibility, enhanced disclosure and whistle blower mechanism. H) SEBI (Listing Obligation and Disclosure Requirement) Regulations, 2015: The SEBI (LODR) regulation, 2015 are a comprehensive framework that governs listed companies in India. Key features include mandatory disclosures, board composition requirement, establishment of committees like Audit and Nomination & Remuneration, and provisions for related party transactions. I) Uday Kotak Committee: The Uday Kotak committee was formed in the year 2017. This committee made several recommendations to improve corporate governance in India. Key proposals included strengthening the role of independent directors, enhancing minority shareholder rights, and increasing transparency and disclosures. The committee also focused on board composition, recommending a minimum of six directors with at least half being independent, including a woman. Current Challenges in Corporate Governance: Following are a few corporate governance challenges: 1) Excessive Executive Compensation: The Concerns are continuing about the executives and CEOs receiving excessive salary especially when compared to the shareholder returns. The reason for excessive executive compensation could be weak corporate governance, market competition or performance metrics. To minimise this there is a need to strengthen the corporate governance

To reduce or minimize these ethical challenges the organisation should promote ethical leadership, implement robust risk management and compliance system and enhance transparency and disclosures. The organization should also take into account the stakeholder's interest and form a proper whistle-blower mechanism. 6 4) Board Composition: The board of any organization often stem from lack of diversity, conflict of interest and insufficient knowledge among board members. Assembling a diverse, skilled and effective board of directors is a complex challenge in current corporate governance. To overcome this challenge an effective strategy would be implementing a structured board recruitment process. Also, fostering open communication and mutual respect among board members is vital for effective collaboration and decision-making. 7 5) Succession planning: Succession planning is crucial in corporate governance for ensuring business continuity, minimizing disruption and developing future leaders. It also helps in maintaining employee morale, reducing recruitment costs, and supporting strategic planning. To overcome this organizations should execute formal succession policies and to determine potential future leaders and equip them with necessary training and expansion opportunities. **Conclusion:** Corporate governance in India has improved a lot over the years. Today, it is not just about following rules but about running businesses in a fair, honest, and transparent way. Important laws like the Companies Act, 2013, and SEBI guidelines have made companies more accountable to their shareholders and the public. Even though the corporate governance has evolved overtime, there are still some challenges which a lot of corporations face while operating their business. Board of directors of the company are not always independent, the ownership and control of business is in the hands of promoter and due to which the minority shareholders interests are neglected. For the Indian Companies to grow they don't just need to follow the laws, rules and regulations but they should also try to gain the investor's interest by doing right and ethical way.

THE ROLE OF CORPORATE LAW IN ENHANCING CORPORATE RESPONSIBILITY

Sibansh Dash

INTRODUCTION “If you think of the world as your shack, then the shack will treat you like its world”

1 It is anticipated that modern corporations will struggle with the sustainable development equation, which involves balancing the costs and benefits of economic, social, and environmental factors, minimizing operational negative effects, and optimizing the benefits accruing for the majority of stakeholders without materially sacrificing the longer-term investment returns to the capital providers.

FRAMEWORK THAT ENFORCES CORPORATE LAW AND RESPONSIBILITY ESG; On the surface, sustainability might seem like an odd choice for safeguarding a business from negative risk. The majority of people think of sustainability as an endeavor to make sure business choices align with particular moral or social ideals. However, we contend that by operationalizing their adherence to these principles, businesses are also attempting to prevent the damage to their reputation, decline in stock value, and legal issues that follow wrongdoing. The results that are apparent to the public, shareholders and employees are only the culmination of a significant effort to pinpoint the company's weak points and enhance its operations. Unlike other industry self-regulatory initiatives, under corporate law Environment Social Governance (ESG's) values are not derived from an abstract moralistic idea of "doing the right thing," nor are they prescribed by a central standard-setter. Instead, as we demonstrate below, they emerge after extensive stakeholder involvement, as they are better positioned to recognize potentially disastrous business processes. ESG brings fresh viewpoints to the company's decision-making process through this externally focused approach, enabling management to better grasp the decisions' overall effects. Socially responsible investing has taken the corporate world by storm. Funds invested according to a company's environmental, social, and governance ("ESG") performance grew to a

staggering \$40 trillion at the end of 2030 . To put it simply, over a quarter of global assets under management are now invested based on the company's environmental and social profile, not just its earnings. The flow of investor money into ESG funds is growing exponentially. According to reports that over 90% of Indian institutional investors now regard ESG as essential, with 78% already allocating, at least partly, toward ESG goals. half of India's largest 100 firms disclose voluntary Scope 3 emissions , and nearly a third have declared net-zero plans. with the statistic that ESG reporting has increased 160% in India across the 5 leading 1,000 listed companies between FY20 and FY22. DIRECTOR'S DUTIES; A company director is someone chosen, usually by the members of a company, to run the company for them. The term "director" doesn't have a specific meaning but is defined in Section 2(34) of the Companies Act, 2013 as follows: 'director' includes any person in the position of director, regardless of the title. Therefore, a director is identified not just by their title but mainly by their role, which depends on the type of company. A company director has a special relationship with the company they serve. This role is called a 'fiduciary position,' and the director is referred to as a 'fiduciary.' A fiduciary must act in a way that is appropriate for their office and prioritize the company's interests over their own. Many might find it surprising that a director's main responsibilities are to the company itself and not to its members, creditors, or employees. However, if a director specifically takes on certain obligations to shareholders, they may have a fiduciary relationship with them and owe them fiduciary duties. This is often true in small private companies, where shareholders typically seek advice from the directors. COMPETITION ACT; A strong and effective competition law framework is vital for

economic growth. It helps maintain a fair market free from anti-competitive practices that harm customers and businesses. Competition law is an important tool for keeping balance in the markets. It ensures that a few major players do not control everything. The market should operate in a way that does not create barriers for small businesses or burden them unfairly, driving them to use dishonest practices to compete. In India, the competition law framework has evolved from the old hard work brings both financial and non-financial rewards.

CATEGORY AND CASE LAWS In India, human rights abuses linked to companies and corporations fall into several categories. It's important to understand these classifications because the nature of human rights violations and the regulations that address them can differ among categories. The following broad categories identify who violates human rights and where these abuses occur: (a) violations by Indian companies or their subsidiaries, (b) violations by Indian subsidiaries of foreign companies, (c) violations by government agencies during public procurement and development projects, (d) violations by Public Sector Undertakings (PSUs), (e) violations arising from direct, indirect, or silent complicity between government agencies and private companies, (f) violations by Indian companies—both PSUs and private companies—operating nationally and internationally, (g) violations within the supply chains of any of these types of companies, and (h) violations within the informal sector.

6 The Bhopal Gas Tragedy Case - The Bhopal gas tragedy on the night of 2nd and 3rd December 1984, was perhaps the first major case in India involving corporations in violation of human rights, and environmental pollution on a large scale. This case also exposed the abuse of power by MNCs in developing countries, as well as obstacles faced by victims in transnational litigation. Even now, 41 years after the disaster, the legal battle to hold corporate actors accountable for the gas leak and to clean the Bhopal plant site continues before the courts both in India and in the United States (US).

The Vedanta/Odisha Mining Corporation Case 7 The refinery and mining project run by Vedanta's Indian subsidiaries, along with the state-owned Odisha Mining Corporation, has sparked significant

controversy. This is mainly because the mining site includes the Niyamgiri Hills, which the tribal people consider sacred for religious and cultural reasons. There are also concerns that the environmental impact assessment and public consultations were not conducted properly.

REGULATORY MECHANISMS UN Global Compact (2000) – Established principles for businesses with respect to human rights, labor, environment and anti-corruption. Sustainable Development Goals (SDGs) (2015): urged companies to align their approaches with the priorities highlighted in global pacts on issues like climate change and inequality. It is important to note that those frameworks called for corporations – given their considerable power as global actors – to have a role in bringing about a better social state. With the increased public and regulatory scrutiny on social and environmental issues, CSR slowly transitioned from voluntary practices to almost core corporate strategies. Firms started embedding CSR, introducing sustainability reporting and domed by stakeholder engagement

India : With the enactment of Section 135 of the Companies Act, 2013 India led the way in making CSR a statutory requirement. Companies with annual net profits of (INR 5 crore) or net worth of (INR 500 crore) or Turnover of (INR 1000 crore) are required to spend a minimum of 2% of their average net profit towards CSR activities such as education, health care, and environmental sustainability per the law.

European Union : 8 The requirement of disclosing Company Data regarding their Environmental and the Social Policies is to ensure transparency and Accountability for CSR under EU Non-Financial Reporting Directive (NFRD), for large companies.

CONCLUSION Ethical principles help us assess human behavior and Corporate law / Responsibility . They guide us in distinguishing right from wrong, good from bad, and acceptable from unacceptable. However, making ethical decisions in today's business world is often complex. It isn't simply a matter of black and white; it frequently involves navigating challenging moral situations. Decision-makers often face

conflicting interests, sometimes balancing two equally desirable outcomes or two less-than-ideal options. Information asymmetry adds to this complexity. This issue is a critical part of the agency problem. It arises when the interests and knowledge of corporate managers and boards differ from those of shareholders and the broader stakeholder community. Since boards and management are in charge of executing Social practices, there is often a gap, or ethical dissonance, between their personal morals, ethics, values, and the formal expectations or business goals of the organization. This ethical dissonance can lead to internal conflict. Decision-makers may struggle to align their personal ethical standards with the pressures and targets of business performance. Ultimately, understanding and addressing these tensions is essential for promoting authentic, accountable, and sustainable corporate governance. Bridging the gap between personal ethics and organizational needs will be crucial in ensuring that CSR initiatives are not only well-meaning but also effective and ethically sound. So to solve or try to solve this above issues or problem here is the Answer; Corporate law plays a key role in shaping responsible business Monopolistic and Restrictive Trade Practice Act, 1969 (MRTP) to the current Competition Act, 2002 (the Act). The MRTP Act was based on socialistic ideas and philosophies, significant parts of the Directive Principles of State Policy (DSP). The main goal of MRTP was to prevent and limit the formation of monopolies in the market. It was believed that concentrating power in the hands of a few would hurt economic growth and consumer interests, so it needed to be restricted. However, MRTP did not effectively address public sector companies and imposed stricter limits on the private sector. Also, terms like collusion, abuse of dominance, price fixing, and bid rigging were not clearly defined, which made MRTP ineffective in addressing the changing challenges in the Indian market after the reforms in 1991. CSR; In essence, corporate law entails a change in the emphasis of corporate responsibility from maximizing profits for shareholders while adhering to legal requirements to responsibility to a wider range of stakeholders, including societal concerns like environmental

preservation and accountability for both legal and ethical duties. According to Shell International's social reports, there is a change from "bottom line" to "triple bottom line," or, as it is commonly stated, from "profits" to "people, planet, and profits," or even "profits and principles." These more general issues are viewed as long-term safeguards for shareholder interests rather than necessarily being at odds with them. Corporate social responsibility or CSR, is the application of social responsibility in the process of making profits rather than philanthropy or giving away presents from revenues. To create CSR codes, generate or verify CSR reports, train employees in CSR, and promote their CSR credentials, businesses are hiring CSR consultancies. They are registering for CSR programs and submitting applications for CSR prizes WHERE WE STAND WITH CORPORATE LAW The growing voice of civil society has of course been aided by another often cited 'driver', the new technology, expanding easy global communication, and making for instant worldwide publicity. There is now, it is frequently said, 'no hiding place' for corporate activity. The internet provides a ready forum for instant criticism and publicity, with websites on all kinds of issues pointing the finger at specific companies. The concept of 'CSR drivers' has become somewhat of a cliché. It is often taken for granted by all parties involved. The factors are genuine, but we need to examine how much impact they really have and whether that impact is lasting. More empirical research is needed, and there is definitely room to criticize the reliance on these drivers for achieving CSR, as we will discuss. We should also consider who is driving this change. CSR has been welcomed by significant parts of big business, viewed not only as a challenge to overcome but also as an opportunity to gain a competitive edge. As we all know CSR is not a voluntary activity ,it is imposed by corporate law ,The business case has been a useful method for presenting and promoting CSR. It effectively avoids the criticism that it is not appropriate for management to prioritize CSR

policies. This approach suggests that the interests of other stakeholders should come before those of shareholders, with social benefits arising from investment and economic development. "Corporate philanthropy is charity with other people's money ... When Gabbar Singh stole from the rich to give to the poor, he was still stealing... he was still a bandit - and less of one, arguably, than the vicariously charitable CEO, who is spending money taken ... from people who have placed him in a position of trust to safeguard their property." Corporate Law and HUMAN RIGHTS Law in India have made significant progress since they began. Typically, these two areas do not intersect much. But is that the whole story? Should it be this way? People often question why Company Law in India does not include provisions for Human Rights, including mandatory Corporate Social Responsibility. A common response is that there are other laws focused on worker welfare, such as minimum wage laws, safe working conditions, and holiday entitlements. But is that enough? Should a company only focus on its own interests and provide benefits to its employees? Do basic Human Rights have no role in a company? The minimum responsibility of companies to their employees is to follow the legal standards in important areas like recruiting and hiring, which includes equal opportunity laws. It also covers compensation and benefits, such as minimum wage and overtime rules. Job design and placement must comply with laws on reasonable accommodation for disabilities. Companies should protect workers from discrimination and harassment, ensure workplace safety, and provide family and medical leave. They must maintain fair union relations, conduct performance evaluations, and manage promotions while preventing unlawful termination. However, socially responsible human resource management goes beyond just following the law. Employers should strive to build relationships with their employees that promote dignity and respect. They need to ensure that employees feel valued and that their behavior by setting the legal rules that companies must follow. It outlines the responsibilities and liabilities of directors and officers, promotes transparency through required disclosures, and ensures

accountability with regulatory oversight. By including principles of fairness, protection for stakeholders, and ethical governance, corporate law makes sure that businesses pay attention not just to profit but also to social, environmental, and ethical issues. In many places, such as India, legal requirements like mandatory CSR spending and ESG reporting have further strengthened corporate responsibility. Ultimately, corporate law acts as both a safeguard and a guide, encouraging companies to link business success with public interest and long-term sustainability.

INVESTOR PROTECTION LAWS IN INDIA: CURRENT GAPS AND REFORMS

Soumya Bharat

INTRODUCTION: Investors are the one who invest their savings and provide funds to companies. Investing in any security comes with a risk and because of it investors should be aware of their rights and responsibilities. Increasing scams have revealed the importance of protecting the interest of investors. In the past, due to rise in financial frauds and scams investing looked so risky that generation of our parents would have been invested in Fixed Deposits or any other scheme of banks instead of stock market. One of the biggest scam i.e. the Harshad Mehta scam(1992) was the turning point for SEBI and investor protection which led to massive market crash that wiped out the savings of many investors, this shook public interest in stock market. Likewise, other scams also made an adverse impact on investors such that the name of stock market came along with reminders of loss, scams and risk. In the recent years, the rise of digital platforms and new financial products has brought in a wave of first time investors but it also exposes investors to new form of frauds and regulatory loopholes. Protecting the interest of investors is essential for securities market as said by Justice S.H. Kapadia 'Investor protection is an inseparable part of a sound capital market structure'. According to the SEBI Act, 1992 Investor protection is 'protecting the interest of the investors in securities and promoting the development of and to regulate the securities market and for matters connected therewith or incidental thereto.' Investor protection ensures that individuals can invest with confidence knowing that laws and regulations are there to protect their interest. This article explores the current state of investor protection laws in India, identifies key gaps and discusses reforms to strengthen investor confidence and market integrity.

LAWS RELATING TO INVESTORS PROTECTION: The operation of the stock market promotes the economic growth of the country and investors are basically the pedestal of financial and securities market.

Hence there is a need for providing protection to investors so that they feel safe to invest in securities market. Mainly SEBI make regulations in regards to investor protection. Securities And Exchange Board Of India vs Alka Synthetics Ltd. And Ors.¹ talks about powers of SEBI particularly to take regulatory actions in the interest of investors and securities market. The issue arose when SEBI asked Bombay Stock Exchange to freeze some proceeds which suspected to be a sign of market manipulation. People challenged this act of SEBI, however the court upheld that SEBI has power to act in such situation and is free to act flexibly without prior published measures to protect investor's interest. SEBI has now created various regulations to protect interest of investors. SEBI (Investor protection and Education Fund) Regulation, 2009 was established by SEBI to educate investors enough so that they can take informed decisions before investing in securities market. The funds in this are used in refund of unpaid dividends, matured deposits, or promotion of investor education and protection. SCORES (SEBI Complaints Redress System) is a web based centralized grievance redress system of SEBI. It is a platform where investor can lodge and follow up their complaint. This enables the market intermediaries and listed companies to receive the complaints and SEBI peruses the ATR (Action Taken Report: uploaded by entity concerned) and closes the complaint if satisfied that the complaint has been redressed adequately. The SEBI (prohibition of fraudulent and unfair trade practices) regulations, 2003, ensures that there is no insider trading or fraudulent practices being done by any connected person or person having access to any unpublished price sensitive information. Despite this all regulations SEBI has also created various compliances which protect interest

of investors like Application Supported by Blocked Amount (ASBA). Under the Companies Act, 2013 there is a provision protecting the interest of Minority Shareholders. Class action suit is also introduced as per 245 of the Companies Act, 2013. This provision strengthens the defence of individual investor rights and advances them by providing investor to unite in a law suit. CURRENT GAPS: All this initiative by SEBI has increased trust of investors and a development over securities market can be noticed. However there are still so many practices going on in the market which affect the interest of investors such as the process of redressing grievances of is also very lengthy, Demat form has helped a lot in investor's favr but at the same time it has also a possibility to cyber frauds where cyber audit for intermediaries is in place but enforcement is still weak, ambiguity between investors who are not well aware with the changing technology and also pending cases or appeals often delay its action. Investors often get trapped in fraudulent schemes or fraudulent trading apps, herein scammers reach out to their targets via intagram, whatsapp, or any other social media platforms through advertising, they push users to install the app. Once investor start investing into stock market through that app they can see profit accumulated, however the scam start when they are not able to withdraw their money. Across the country, professionals from all walks of life have been affected in these type of scams, a retired Air Commodore lost RS.1.25 crore, a 66 year old retiree lost Rs.2.5 crore and many others² . To prevent such scams education of investors are important so that they know they have to trust only SEBI authenticated portals or any verified platform. Also SEBI has recently moved to regulate promotion of stock tips or investment strategies by influencers in social media platforms, especially when tied to unregistered advisory services. The whistleblower framework is still underutilized due to safety issues, awareness and incentive structure, especially when compared to global system. With growing securities market in India there is a need to develop technical mechanism. It needs to ease foreign investments. There is a very big problem in recovery of funds and compensation to

unhappy investors in case criminals have sent money oversea or hidden it using benami transactions. These gaps shows that India still needs for stronger enforcement, monitoring tools and greater emphasis on investor education. REFORMS: SEBI has taken significant measures and initiative for efficient legal mechanism for protection of investors. Enhancing investor protection requires a multifaceted approach that involves regulatory, institutional, and market-oriented reforms. There is a growing trend of Environmental, social, and governance (ESG) which promoted disclosures by entity, aiming to provide investor transparency to take informed decision during investment. SEBI has tightened the regulation related to insider trading so that interest of investors is not affected. SEBI has also published a progression of advertisement and public notification in national and local papers teach and alert the investors about the dangers related with the securities venture. this can be achieved through workshops, educational programs or webinars. SEBI initiated a comprehensive investor awareness scheme through regulators, SROs, NGOs and speculator groups. One of the major reform in securities market is ASBA, which allowed investor's money to be blocked in their own bank account until the allotment process is completed. rolling settlement for all listed securities, ensuring faster credit of shares by preventing settlement delays. Recently India and UAE have signed a treaty for digital infrastructure projects and investments in it. The agreement prohibits denial of justice or abuse and also reduces the local remedies exhaustion requirement from five years to three, before initiating arbitration. SEBI has recently introduced mechanism names as 'VALID' it is a safer payment mechanism for investors which can be used by market intermediaries to collect funds from clients. This mechanism will go live from 1st October, 2025.³ These reforms reflect SEBI proactive approach in increasing Investor protection, awareness to investors about their rights and continued innovation in regulatory practices.

CONCLUSION:

In the financial market protection of investors stands as critical aspect. Investor protection extends to fostering a fair and transparent market where all participants are subject to the same rules and regulations. Regulators play a crucial role in safe guarding investor's interest by establishing and enforcing various laws and regulations. Regulatory improvement, Alternate resolution dispute mechanism and greater investor education is required to ensure a securities market that is transparent and resistant to fraud. A solid basis for fighting against corporate fraud and market manipulation is provided by significant rules such the SEBI Act, the Companies Act, and mechanisms like SCORES, ASBA and VALID. Initiatives like ESG disclosures, enhanced surveillance against insider trading reflect a positive shift towards proactive investor protection. Investors education is necessary for prevention of fraud and also so that investors can take informed decision while investing rather than investing on someone's advice or just a mere speculation, as Ben Graham has said 'The individual investor should act consistently as an investor and not as a speculator'. Ultimately, protecting investor is not only about enforcing rules but also about empowering individuals to make informed decisions, trust the system, and contribute to the growth of a fair and inclusive capital market.

LEGAL IMPLICATIONS OF CORPORATE DONATIONS AND POLITICAL FUNDING IN INDIA

Subodh

In India the concept of corporate donations is not new, Indian capitalist played an essential role in the freedom struggle. These donations helped funding for various activities, such as printing and distributing nationalist literature, organizing public meetings, and supporting leaders who were often subjected to restrictions and imprisonment. At that time the purpose of these corporate donations was freedom but the same cannot be said for the recent times. the scenario and legal implications of such corporate donations is changed during the recent times as pertaining to new laws and regulations. Hence it has always been a topic of vibrant and ethical legal debate. the journey of this regulation is shaped by both judicial activism and changing public expectation. 1 In India the mode of funding by corporate donations can be done by few ways such as ELECTORAL TRUST, ELECTORAL BONDS and directly by the virtue of Section 182 of THE COMPANIES ACT, 2013. 1. ELECTORAL BONDS Yet the legal scenario of this is not that simple in 2018 government introduced and concept of funding through electoral bond. So, what is an Electoral bond? These are the bonds which are instruments/securities that are used to donate funds to political parties. Electoral Bonds may be purchased by a person who is a citizen of India or incorporated or established in India. Further only the Political Parties registered under Section 29A of the Representation of the People Act, 1951 (43 of 1951) and which secured not less than one per cent of the votes polled in the last General Election to the House of the People or the Legislative Assembly of the State, shall be eligible to receive the Electoral Bonds In 2024 Supreme Court in the Association for Democratic Reforms & Anr. v. Union of India (UOI) & Ors.², unanimously struck down the Electoral Bonds (EB) Scheme. The questions arose in this case were: a. Whether the non-disclosure of information on voluntary contributions to political parties is violative of the right to information?

b. Whether unlimited corporate funding to political parties as envisaged by the amendment to the Companies Act violates the principles of free and fair elections? The verdict given by the supreme court were as follows ¶ Electoral Bond Scheme, by anonymising contributions, violates the right to information traceable to Article 19(1)(a) and thus, is unconstitutional. ¶ Accordingly, amendments made by the Finance Act, 2017 to the Income Tax (IT) Act 1961, the Representation of Peoples Act 1951, and the Companies Act 2013, to allow donations through Electoral Bonds have been held to be unconstitutional. ¶ Amendment to companies act permitting unlimited corporate contribution to political parties is arbitrary and violative of article 14. ¶ The court emphasise the amendment authorization of unrestrained corporate influence in election, which contravenes the provisions the principals of free and fair election and political equality.³ 2. SECTION 182 OF THE COMAPANIES ACT, 2013 "THE BUSSINESS OF THE COMPANY IS TO DO BUSSINESS "- Milton Friedman But this provision of the companies act suggests otherwise at first the companies act provide a limit at 7.5% of the average net profit in the past three years but through and amendment in the finance act 2017 removed the cap of 7.5% due to which it was in the companies power to give any amount of money to the political party not withstanding its profits, turnover or owners capital. Hence the core purpose of the business to do business was defeated as a company could also be made to just give political donations to a political party. S182(1) Notwithstanding anything contained in any other provision of this Act, a company, other than Government company and a company which has been in existence for less than three financial years, may contribute any amount directly or indirectly to any political party: Provided that

no such contribution shall be made by a company unless a resolution authorising the making of such contribution is passed at a meeting of the Board of Directors and such resolution shall, subject to the other provisions of this section, be deemed to be justification in law for the making of the contribution authorised by it. According to Section 182(1), a company may contribute any amount, either directly or indirectly, to a political party, subject to certain conditions. However, not all companies are permitted to make such contributions. The following categories of companies are allowed to make political donations: Private and public limited companies that have been in years. Companies engaged in commercial business activities and generating revenue. Certain companies are expressly prohibited from making political donations under this section: 1. Government Companies: A company in which the government holds a majority stake is not allowed to contribute to any political party, as this could lead to conflicts of interest and misuse of public funds for political purposes. 2. Newly Incorporated Companies: Companies that have been in existence for less than three financial years are not permitted to make political contributions. This restriction ensures that only well-established businesses with financial stability participate in political funding. 3. Requirement for Board Approval of Political Contributions Mandatory Board Resolution for Political Donations Before a company can make any contribution to a political party, a resolution must be passed at a meeting of the Board of Directors authorizing such a contribution. The board resolution acts as: Legal justification for the political contribution. A safeguard against arbitrary decision-making, ensuring that political donations are considered and approved at the highest level of corporate governance. A record for financial and regulatory compliance purposes. The resolution must specify:

- The name of the political party receiving the contribution.
- The amount of the contribution.
- Whether the contribution is made directly or indirectly.
- The mode of payment. Once the resolution is passed, it legally validates the contribution,

provided it complies with all other provisions of Section 182. Though this provision was transparent by whom such donations are made as it would be reflected in the profit and loss account as opposed to the electoral bond in which there was anonymity with respect to the donor. This provision accounted for transparency and accountability. The electoral bonds have made amendments with respect to the provisions of section 182 of the companies act, 2013 which removed the limit of 7.55% cap. the Supreme court in the verdict of Association for Democratic Reforms & Anrv. Union of India (UOI) & Ors.⁴, reinstated the limit of 7.55%⁵. 3. Foreign contribution regulations The foreign contribution (regulation) act 2010 strictly prohibits political parties from accepting foreign contribution but several amendments have been to this regulation. In 2016 an amendment was made in the FCRA regulation the amendment is proposed to have retrospective effect from 26th September 2010. This will effectively neutralise the Delhi High Court's decision in Association for Democratic Reforms vs. UOI after such date. Thus, political contributions made in past from such date would also be legalised. The decision of the Delhi High Court may be recollected. The question before the Court was about companies with more than 50% foreign holding. Were such companies a "foreign source" as defined in the Foreign Contribution (Regulation) Act 1973 (FCRA 1973)? FCRA 1973 prohibited political parties, etc. from accepting contributions from such companies. Certain companies were found to have more than 50% foreign holding and yet they had given contributions to political parties. Section 2(1)(e) of FCRA 1973 deemed companies with "more than one-half of the nominal value of its share capital" held by foreign citizens/corporations incorporated in a foreign country to be a "foreign source". Thus, the Court held that such contributions were in violation of FCRA 1973. FCRA 2010 and FCRA 1973 are, in this aspect, worded similarly. Thus, the ratio of the Delhi High Court's decision should apply to FCRA 2010 too. The consequences under FCRA 2010 for accepting

such contributions (including for those who assist in such acts) are quite stringent and include imprisonment. The proposed amendment now seeks to neutralise this and that too retrospectively. Thus, companies having more than 50% foreign shareholding but within the limits specified under FEMA will not be treated as a "foreign source". The political parties would thus be able to accept contributions from such companies without being in violation of FCRA 2010.

4. ELECTORAL TRUST The Electoral Trust mechanism is a significant element in the corporate political funding landscape in India. Electoral Trust mechanism was introduced to bring transparency and accountability in political donations by corporates. What is Electoral Trusts Scheme?

- Electoral Trusts Scheme, 2013 was notified by the Central Board of Direct Taxes (CBDT).
 - An Electoral Trust is a Trust set up by companies with the sole objective to distribute the contributions received by it from other Companies and individuals to the political parties.
 - Only the companies registered under Section 25 of the Companies Act, 1956 are eligible to make an application for approval as an Electoral Trust. The electoral trusts have to apply for renewal every three financial years.
 - Electoral Trusts adhere to a robust reporting system, submitting detailed annual contribution reports to the Election Commission of India (ECI). This ensures a comprehensive record of donations and their allocation.
- Case study:** Prudent electoral trust⁷ Prudent electoral trust donated more than 450 crores between 2013– 2022. Around 80–90% of funds were given to Bhartiya Janata Party (BJP). This concentration mirrors the broader political economy's bias toward established power blocs, where corporate donors prioritise access to ruling parties over democratic pluralism. the regulatory framework—governed by the Electoral Trusts Scheme (2013)—mandates minimal transparency. Trusts must distribute 95% of funds to registered parties but face no scrutiny over their internal governance.

CONCLUSION

These were the ways through which corporate can donate to political parties though prima facie it may seem that it lacks transparency and accountability but another major factor which can't be overlooked is that it may be a threat to the democracy of India. Few critics also say that electoral bonds constitute legalized corruption, enabling corporate entities to wield disproportionate influence over policy decisions by sponsoring ruling parties.⁸ Thus, the constitutional machinery plays a pivotal role in regularising and checking the fundamentality of the provisions instated by the legislature as sometimes it may be against the spirit of business and also may be a threat to independence of legislature in policy making.

LOYALTY SIGNED IN INK: LEGAL FOUNDATION OF SPONSORSHIP AND ENDORSEMENT

Vanshika Kapoor

Ever wondered why cricketers flash their logos carefully on camera or why youtubers say "this video is sponsored by..."?

It's just not marketing but law in action. Let's get into the legal aspects of sponsorship and endorsement.

Sponsorships and endorsements may seem like simple PR strategies, but beneath the surface lie complex contracts, disclaimers, and potential legal risks. Though often used interchangeably, they serve different purposes and carry unique legal implications.

SPONSORSHIP typically involves a brand providing financial or logistical support to an event, individual, or organization—an indirect form of promotion. For example, Tata pays for the exclusive right to associate its name with the IPL cricket tournament (Tata IPL).

ENDORSEMENT, on the other hand, is a direct marketing strategy where a celebrity, influencer, or expert publicly promotes a product or service, often implying personal trust or use.

For example, Alia Bhatt endorsing Frooti in advertisements, for which she is paid by the brand. These deals target to influence consumer's behavior through trust driven promotion across media, advertising, and social media platforms.

Helping brands/companies with direct sales and/ or

profit
celebrity-focused
brand

endorsements are said to help companies gain visibility, while also helping develop the overall valuation of the company. The

sponsorship and endorsement comes with a lot of legal burden and compliances; One misleading post/advertisement and the reputation of celeb is dust! Keeping this aside, there are various forms of sponsorship and endorsement, understanding these types not only helps in making better marketing strategies but also ensures legal compliance and effective

risk management.

Because no-one says

"trust me" like a

celebrity selling toothpaste they probably never use. And if the ad goes off the track well, lawyers are the new brand managers!

First let's see what are the main forms of sponsorship in India in brief :-

* Sports Sponsorship

Brands fund sports teams, athletes, or tournaments to gain mass popularity and fan loyalty.

For example: IPL, FIFA

* Event Sponsorship

Companies associate with traditional, musical, or business events to reach niche audiences and create good visibility.

* Media Sponsorship

This involves sponsoring TV shows, or web series to subtly highlight brand identity on-screen.

* CSR Sponsorship

Brands support social or environmental causes, enhancing goodwill and fulfilling CSR obligations under law.

* Educational Sponsorship

Firms sponsor college fests, scholarships, or skill programs to connect with youth and build future customer trust.

In addition to the forms of sponsorship, let's also get into forms of endorsement :-

* Celebrity Endorsement

Popular film stars, athletes, or public figures promote products, growing fan base and public trust.

* Influencer Endorsement

Social media influencers promote brands through platforms like Instagram or YouTube, targeting specific digital audiences.

* Expert Endorsement

Professionals such as doctors, chefs, or fitness experts lend credibility to products by endorsing them as trustworthy products.

* Fictional Character Endorsement

Brands use mascots or cartoon icons to build emotional connect and brand memorability.

This is also to attract children as consumers to buy such product. For example: Amul girl in all the dairy products of Amul. In the era of viral tweets and reels, a misleading claim can spark backlash in minutes. That's why legal compliance isn't optional anymore, it's URGENT!! Additionally, there should also be DISCLAIMERS like 'individual result may vary' or 'picture is for

representation purpose only' should be added to reduce liability and such disclaimers shouldn't be hidden and be at a conspicuous place where it can be clearly visible. Also, there are many laws and provision in India that regulate these aspects; they are: * Indian contract act, 1872

* Ministry of Consumer Affairs -

The law governs the practices of agreements, Guidelines for Social Media Influencers contracts and ensures they are legally (2023)

governed and if they are correctly enforced.

It require influencers to disclose material

It also looks into matters of offer, acceptance connections with the brand. Mandatory use and consideration.

of disclosure labels such as #paidpromotion, #sponsored, etc. Failure to comply can lead to penalties under the CPA.

* The consumer protection act, 2019

The law protects consumers from misleading advertisements and false claims made by

* The Trademark Act, 1999

endorsers and sponsors. The sponsoree if it governs use of brands and logos in advertises some false or misleading product, sponsorship deals. Ensures that intellectual he/she shall be held liable.

property rights of sponsors or endorsers are If an endorser fails to exercise due diligence not misused.

before endorsing a product: He may be fined for the same up to Rs. 10 lakh for the first offence and if the offence is repeated he may be fined for Rs. 50 lakh and will be banned from endorsements for up to 3 years

* Income Tax Act, 1961

Any income earned through sponsorships or endorsements is taxable under appropriate

heads i.e Profits and gains from profession.

* Advertising Standards Council of India (ASCI) Guidelines

ASCI has specific guidelines for influencers and celebrity

endorsements, requiring

disclosures like #ad, #sponsored, or #collab.

It also restricts misleading endorsements.

* The Drugs and Magic Remedies Act, 1954

It plays a crucial role in regulating advertisements of drugs, health products, and treatments in India and this includes celebrity endorsements and sponsorships in the healthcare.

The practices of sponsorship and endorsement are used worldwide!! And the celebs or influencers who market the product are paid really well.

In 'GoldenEye' (movie), 1995, BMW paid \$3 million to feature its car without any ad spend.

The result? A 900% spike in orders. That's the power of strategic, legally sound product placement.--(TheJournal.ie)

Fun fact- The top tier celebs like Kylie Jenner or Virat Kohli charge up to \$1 million for a single instagram post - (economic times).

A free gift + a post without "#ad"? That's enough to violate the Consumer Protection Act and ASCI guidelines. Are you aware of what happens when a ₹5 crore endorsement deal turns into a courtroom drama? That's more often than you think; Some impacts that might take place after such drama are:

* First the public figure will be required to respond to the allegations and should participate in legal proceedings; these proceedings might be a bit hectic and loooong (they should appoint a legal representative to present them in courtroom)

* The media coverage, public opinion, rumours and social media discussion can significantly impact the celebs' image. For example: After India's got latent controversy took place, Many brands exited their contracts with Apoorva Mukhija due to her ruined image in the public eye.

* This may also affect their professional life and career and they might face difficulties securing future opportunities.

* It causes a huge impact on their trustworthiness.

* And the most importantly; this ruins their years built REPUTATION!! (This can be said as "From endorsement to embarrassment").

The celebs and influencers should be more and more careful while signing the agreement of any sponsorship. As it might either make them a lot of money or it will disturb their public profile. So, here are 4 main things endorser should check before signing a brand deal :-

1. Verify the product claims

Don't just trust the brochure. Endorsers must personally validate that the product's claims are true and backed by evidence or risk facing legal action for misleading the public. False claims don't just buy you dreams, they too buy you legal nightmares

2. Understand the liability

Ignorance of law is no excuse!!

Under Section 21 of the Consumer Protection Act, 2019, celebrities and influencers can face fines, bans, or legal proceedings for misleading advertisements.

3. Review the endorsement contract carefully

Don't blind trust contracts, there might be some hidden clauses in agreement that can be more dramatic than the promotion itself.

Always look for :

* Morality clauses (you could be dropped if your image is harmed)

* Exclusivity clauses (can you work with a competing brand?)

* Penalty clauses (what if the ad is banned?)

4. Know disclosure guidelines

#Ad is not optional anymore.

According to ASCI and CCPA guidelines, social media influencers and endorsers must clearly disclose paid partnerships with proper labels like #ad, #sponsored, or #collab.

When you are getting paid, say it out loud or your next collab is gonna be with the courtroom. Also do a background check on the brand.

While sponsorships and endorsements are often viewed through a marketing lens, their execution involves a range of legal and compliance considerations; especially for companies operating in regulated industries. This is where the Company Secretary (CS) plays a pivotal role. Acting as the legal and governance advisor to

the board, the CS ensures that every promotional deal, influencer tie-up, or sponsorship agreement complies with statutory norms, protects the company's reputation, and aligns with ethical business practices. For detailed legal compliance or litigation, it is very crucial to have a legal team, consisting of lawyer, legal counselor and company secretary. Think of them like an ironman's suit, keeping the brand/company safe when heat is on or the brand might get vaporized

Now, let's shift our gears (vroom vroom) and see how brands strategically navigate this space.

Some most crucial strategies are :-

* Right face, Right fit

Endorser values must not clash with company ethics. Example: Virat Kohli endorsing Puma blends fitness, youth, perfectly; a strategic match that boosted Puma's athletic brand in India.

* Include legal safeguards

It's about morality clauses, exit clauses, and indemnity provisions in contracts to protect the brand legally. Example : After Kylie Jenner faced backlash over social media comments, several international brands had exit clauses allowing them to cut ties overnight.

* Transparent disclosures

They must include this due to ASCI and CCPA Guidelines. Shows how companies and endorsers are now legally required to use tags like #ad or #sponsored.

* Short term deals

This is useful for legal flexibility; brands can exit easily in case of legal trouble or public backlash. Example: During diwali, Nykaa ropes in beauty influencers for quick, themed collaborations offering high engagement with low legal and financial risk.

* Measure ROI (return on investment)

From a governance and compliance perspective, a company secretary or brand team must track returns to justify legal risks and spending. Example: A fintech startup assessed conversion from influencer promo codes shared by Hardik Pandya, tracking sign-ups and drop-off rates before renewing the deal; ensuring diligence in ROI and legal.

CASE STUDY

KIM KARDASHIAN AND CRYPTO

PROMO (ETHEREUMAX)

Kim Kardashian promoted the cryptocurrency (EthereumMax) online but it was without proper disclosure. What she did wrong was she only added #ad and not disclosed how much she was paid, she was penalised with a fine of \$1.26 million by the U.S. SEC. –(business insider)

THE MAGGI NOODLE CONTROVERSY

Celebs like amitabh bachchan, madhuri dixit, preity zinta endorsed the product maggi noodle on television. When the maggi noodles were banned for health and safety concerns, the FIRs were filed against them too as they weren't promoting just noodles but the health risks of the youth...

PATANJALI MISLEADING

ADVERTISEMENT CONTROVERSY

Patanjali Ayurved was caught in a major controversy for publishing misleading advertisements claiming that their Ayurvedic products could "permanently cure" diseases like diabetes, asthma, COVID, and high blood pressure without scientific or regulatory approval.

FAIR & LOVELY

(NOW GLOW & LOVELY).

The brand was criticized for promoting color biasness. Public criticism and social pressure of boycotting or banning the product led to a rebrand and regulatory scrutiny. Hence the name was changed to "GLOW & LOVELY".

This morals that the brands should align with socially responsive messaging.

RONALDO MOVES COKE BOTTLES

At the euro press conference 2020, Cristiano Ronaldo pushed coca cola bottles aside and said 'DRINK WATER'. By this action the coca cola stock dropped \$ 4 billion!! Here he wasn't bound by any contract. But imagine what if he was?

Now Let's Conclude this article!

CONCLUSION:With consumers becoming smarter and laws getting stricter, endorsers and brands must move beyond vacant promotions to build real

trust; Someone deeply interested in corporate governance and legal compliance, I believe it's high time that endorsement and sponsorship deals are treated with the same due diligence as business agreements. After all, a signature isn't just ink on paper, it's a promise to the public.

Sponsorships and endorsements are more than just a business contract. They're relationships built on trust, and often seen by the consumers as loyalty signed in ink. When a known face promotes a brand, they tie its name to that brand, it sends a immense message. In a world where one wrong tweet can create huge backlash, and misleading ads can invite legal trouble, both brands and endorsers have to stay smart and sincere.

That's where the need of legal minds especially Lawyers, Company Secretaries and also Advocates becomes very important.

Their job isn't just paperwork; it's about protecting reputations, ensuring fairness, and keeping the trust real, not just on paper. With consumers becoming smarter and laws getting stricter, endorsers and brands must move beyond vacant promotions to build real trust; Someone deeply interested in corporate governance and legal compliance, I believe it's high time that endorsement and sponsorship deals are treated with the same due diligence as business agreements. After all, a signature isn't just ink on paper, it's a promise to the public. Sponsorships and endorsements are more than just a business contract. They're relationships built on trust, and often seen by the consumers as loyalty signed in ink. When a known face promotes a brand, they tie its name to that brand, it sends a immense message. In a world where one wrong tweet can create huge backlash, and misleading ads can invite legal trouble, both brands and endorsers have to stay smart and sincere. That's where the need of legal minds especially Lawyers, Company Secretaries and also Advocates becomes very important.

Their job isn't just paperwork; it's about protecting reputations, ensuring fairness, and keeping the trust real, not just on paper.

CORPORATE LAWS AND THE PROTECTION OF TRADE SECRETS IN INDIA

Vrinda Khandelwal

Trade secret play a crucial role in offering a competition through confidential knowledge such as manufacturing processes and business strategies. The protection of trade secrets involves a combination of legal and practical measures, varying across jurisdictions but generally guided by international agreements. Protection of trade secrets in India has generally not been a subject matter of discussion in the past. Trade Secret at present is 'information of commercial value kept secret'. It could comprise of consumer profiles, list of customers and suppliers or may consist of information on advertising strategies or may include information on technical know-how and business. In 2006, Coca-Cola's closely guarded secret formula was nearly stolen by three employees attempting to sell it to rival PepsiCo. Swift action was taken under the Economic Espionage Act of 1996 (EEA) in the United States, a robust federal law that criminalizes the theft or misappropriation of trade secrets. The accused were prosecuted by the FBI (Federal Bureau of Investigation) and sentenced to federal prison. But what if this incident had occurred in India? The answer is stark: The perpetrators might have walked free. India does not have a specific, standalone statute dedicated solely to the protection of trade secrets. However, India is a signatory to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). According to Article 39(2), TRIPS provides member countries with the flexibility to establish laws that prevent the unauthorized disclosure and use of specific information. In India, trade secrets are protected under a combination of legal principles, including:

1. Common Law (Contractual Obligations): Trade secret protection in India relies primarily on contract law. Confidentiality and non-disclosure agreements (NDA) are key tools for safeguarding sensitive information, imposing legal obligations on employees, contractors, and third parties to maintain confidentiality. Breaching these

agreements may lead to civil claims for damages or injunctions.

2. Indian Penal Code (now Bharatiya Nyaya Sanhita): Unauthorized misappropriation or theft of property, including trade secrets, can result in criminal charges. However, these provisions are typically applied to theft cases, rather than broader infringements of business secrets.
3. Indian Contract Act, 1872: The Indian Contract Act establishes a framework for enforcing non-disclosure agreements and confidentiality clauses, enabling businesses to protect trade secrets by imposing contractual restrictions on employees and stakeholders regarding the disclosure of sensitive information.
4. The Information Technology (IT) Act, 2000: While primarily focused on cybercrimes and electronic transactions, the IT Act includes provisions to protect trade secrets, particularly in cases of digital data misappropriation or unauthorised sharing. Section 66E penalizes violations related to the privacy of information, including digitally stored or transmitted trade secrets.
5. The Competition Act, 2002: The Competition Commission of India (CCI) regulates anticompetitive practices, and while it does not directly address trade secrets, it can be relevant in cases where unauthorized use of confidential business information leads to an unfair market advantage.
6. Intellectual Property Laws : Although India's intellectual property laws do not specifically address trade secrets, certain provisions indirectly offer protection. For instance, unfair competition laws under the Trademarks Act, 1999, can be invoked if a competitor unlawfully uses a trade secret for an unfair advantage.

Challenges to Trade Secret Protection in India

- **Absence of a Dedicated Trade Secret Law:** India lacks a specific statute for trade secret protection, unlike jurisdictions such as the United States or the European Union, which

have established legal frameworks. As a result, businesses in India rely on a fragmented set of legal tools, creating challenges in navigating trade secret protection effectively.

- **Enforcement Issues:** Enforcing trade secret protection is complicated by the absence of clear legal guidelines. There is no dedicated mechanism to define the scope of protection or specify available remedies in case of a breach. Consequently, trade secret cases are often handled under breach of contract or tort law, which may not provide the most suitable or efficient remedies for businesses.
- **Evolving Jurisprudence:** Indian courts have yet to establish a comprehensive body of case law on trade secrets. While there have been some rulings on misappropriation, the legal framework remains in development, leaving uncertainty regarding the scope of protection, available remedies, and damages.
- **Globalization and Cross-Border Enforcement:** As businesses globalize and share trade secrets across borders, enforcing protection becomes increasingly complex. Different legal systems may have divergent standards for trade secret protection, raising challenges for international enforcement. In recent years, there have been notable developments that could enhance the protection of trade secrets in India:
- **National Intellectual Property Policy in 2016** where the policy does not explicitly address trade secrets but it encourages the improvement of Intellectual Property laws, which may lead to better protection of trade secrets in the future.
- **Protection of Trade Secrets Bill, 2024** where the Law Commission of India has proposed a Trade Secrets Bill, 2024, which defines a trade secret as information that is not publicly known, holds commercial value, is kept confidential, and whose disclosure would harm its holder. This bill grants the holder rights to use, disclose, license, and pursue legal action for misappropriation. Commercial Courts will handle trade secret misappropriation cases, with remedies such as injunctions, damages, and destruction of materials containing the secret.
- **India's TRIPS Accession** where as a WTO (World Trade Organisation) member, India is signatory to the TRIPS Agreement. While TRIPS doesn't mandate trade secret protection but it encourages member countries to combat unfair

competition, which can encompass trade secrets.

- **Judicial and Legal Awareness** where Indian courts are increasingly recognizing the complexities of trade secret disputes and reflected in a growing number of cases on trade secret misappropriation, indicating improved protection.
- **Digitalization and Cybersecurity** where with the rise of e-commerce and tech-driven industries, Indian businesses are becoming more aware of the need to safeguard trade secrets in the digital landscape.
- **In the current era of globalisation**, when businesses expand to other nations for global reach, protecting corporate strategy and secrets is becoming increasingly challenging. For example, in the era of digitisation, businesses consider technology to be a trade secret rather than patentable information. This is mostly because market rivalry has reached a point where competitors innovate once knowledge is available. While this encourages healthy competition, it becomes increasingly difficult for small enterprises to compete or thrive if such information is available to business giants.
- **Countries today realise the need of such secrecy** and are attempting to incorporate it into their legal structures. TRIPS, the General Agreement on Tariffs and Trade (hereinafter referred to as "GATT"), and the NAFTA, all contributed to the worldwide growth of trade secret protection.
- **In India**, trade secrets have only been protected by conventional judicial judgements and laws including components of equitable law, contracts law, and torts. The lack of trade secret law has always left a grey area, but Court declarations have always attempted to create and safeguard trade secrets, as well as provide remedies for breaches of confidence. India's lack of a dedicated trade secret law starkly highlights the urgent need for comprehensive legal reform to develop effective protection strategies for proprietary business information. Currently, trade secret protection relies on a fragmented patchwork of laws— including the Indian Contract Act, equitable doctrines, the Information Technology Act, and certain criminal provisions—but these frameworks are

inadequate, unclear, and inconsistent when it comes to defining trade secrets, specifying remedies, and ensuring procedural safeguards. As a result, businesses face considerable difficulties in enforcing rights, proving misappropriation, and seeking timely and effective remedies, often deterring them from pursuing legal action when their secrets are compromised. Without statutory recognition, Indian courts grapple with the challenge of applying general principles to increasingly complex and globalized cases, leading to uncertainty and unpredictability in outcomes. The absence of explicit civil and criminal sanctions further weakens the deterrence for misappropriation, unlike in major economies such as the US and UK. These gaps not only hinder innovation and business competitiveness but also put India at a disadvantage in the global intellectual property landscape. The proposed Trade Secrets Bill, 2024, if enacted, promises to address these gaps by codifying structured legal protection, providing industry confidence, attracting foreign investment, and facilitating innovation by assuring companies that their confidential information is truly secure. Comprehensive legal reform through dedicated legislation is essential for enhancing trade secret protection in India. This step is critical for fostering a robust innovation ecosystem, supporting economic growth, and aligning with global best practices.

Conclusion

The protection of trade secrets under corporate laws is undergoing a significant transformation in India. Despite the absence of a dedicated trade secret statute, Indian companies have relied on contractual agreements, equitable principles, and sectoral laws to safeguard confidential business information. Judicial decisions, such as those mandating confidentiality clubs and recognizing breach of confidence as an actionable wrong, have further emphasized the importance of maintaining secrecy within business organizations. Recent developments including the passage of the Digital Personal Data Protection Act, 2023, and especially the proposed Protection of Trade Secrets Bill, 2024 signal a shift toward introducing comprehensive legislative protection for trade secrets. The Bill, if

enacted, will define trade secrets, specify civil remedies for misappropriation, and enhance the enforceability of rights against unauthorized disclosure and use. These efforts are expected to strengthen India's position as a competitive, innovation-driven economy, bringing the legal framework more closely in line with global best practices. Until dedicated legislation comes into force, Indian businesses must continue to proactively secure their trade secrets through robust contracts, effective internal policies, digital safeguards, and strategic use of the legal remedies presently available. As reforms progress, the landscape for trade secret protection in India will likely see greater clarity, predictability, and legal certainty for corporate actors.