



CORPORATE AND COMMERCIAL MATTERS

A summary guide on corporate and commercial matters

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INTRODUCTION



Commercial laws play an important role in any business or interaction with third parties. Companies will have to enter into some type of commercial exchange sooner or later and it is unavoidable that Companies will not enter a contract. A contract further seals the transaction between the parties, removing any possibility of fraud or error because one party's actions are legally binding on the other.

Principal and agent; conveyance by land and sea; merchant shipping; guarantee; marine, fire, life and accident insurance; bills of exchange, negotiable documents, contracts and partnership are all covered by commercial law.

In India, corporate law practice encompasses a wide range of areas that govern the legal aspects of businesses and corporations. Key practice areas include company formation and registration, compliance with company law regulations, corporate governance, mergers and acquisitions, securities and capital markets, contract drafting and negotiation, intellectual property rights, employment and labour law, tax law, insolvency and bankruptcy, competition law and dispute resolution.

Corporate lawyers in India advise clients on navigating complex legal frameworks, ensuring adherence to regulatory requirements, handling corporate transactions, protecting intellectual property, resolving disputes and offering strategic counsel to support the growth and success of businesses in a dynamic and rapidly evolving corporate landscape.

Corporate and commercial laws in India are regulated through a combination of statutory regulations, government bodies and judicial authorities. The primary legislative framework for corporate laws is governed by the Companies Act, which lays down the rules and regulations for company formation, management, governance and compliance. The Securities and Exchange Board of India (“SEBI”) regulates the securities and capital markets, overseeing public offerings, insider trading and investor protection.



ECONOMIC OVERVIEW

India's economic resilience and strong growth trajectory have emerged as the driving force for its recovery from the pandemic-induced downturn. With an impressive 8.7 per cent growth recorded in the previous financial year, the country's GDP growth is expected to remain robust in FY23, forecasted at 7 per cent in real terms.

The positive outlook is bolstered by the Economic Survey 2022-23, which projects a baseline GDP growth of 11 per cent in nominal terms and 6.5 per cent in real terms for FY24. This projection indicates a steady ascent towards pre-pandemic levels of economic activity.

As the global economic and political landscape continues to evolve, forecasts for FY24 GDP growth are anticipated to be within the range of 6-6.8 per cent. The final growth trajectory will depend on the outcomes of key economic and political developments unfolding on the global stage.

The government's pro-growth policies and reforms have played a significant role in nurturing the economic recovery. It has laid the foundation for India's consistent progress, fostering a business-friendly environment and encouraging investment in various sectors.

The sustained economic growth trajectory and projections indicate India's potential to retain its status as the fastest-growing major economy globally. The resilience exhibited by the Indian economy amidst challenging circumstances underscores its position as a key player in the global economic landscape.

As India progresses towards achieving its economic potential, investors and businesses from around the world continue to keep a close eye on the country's growth story. With a combination of proactive policies, ongoing reforms and a determination to overcome obstacles, India seems poised to scale new heights of economic success in the coming years.

GOVERNING LAWS

- **Foreign Trade Act 1992:** An act for the development and regulations of foreign trade by facilitating imports into and augmenting exports from India.
- **The Securities and Exchange Board of India Act, 1992:** An act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of and to regulate, the securities market.
- **Sale of Goods Act, 1930:** The Sale of Goods Act of 1930 is the law that governs the sale of goods in many common law countries. It establishes the legal framework for contracts involving the sale of movable goods, addressing aspects such as ownership transfer, warranties and conditions of the goods being sold. The Act aims to protect the rights of buyers and sellers, ensuring fair and standardized practices in commercial transactions.
- **The Companies Act, 2013:** The Companies Act 2013 is an important legislation in India that regulates the formation, governance and functioning of companies. It aims to enhance corporate governance, protect stakeholders' interests and ensure corporate social responsibility.

The act covers various aspects such as incorporation, director responsibilities, financial reporting, shareholder rights, mergers, acquisitions and winding-up procedures, fostering a transparent and efficient corporate environment in the country.

LICENSES AND REGISTRATION

- **Company or LLP Registration**

Most businesses in India are started as proprietorships or partnership firms, without any registration from the Central Government. The Ministry of Corporate Affairs regulates the registration of a company and LLP. It is advisable for Entrepreneurs who have plans for operating a business with an annual turnover of more than Rs.20 lakhs to obtain an LLP or Company registration.

Once, a company or LLP is registered, the entity would have a separate legal identity and the promoters would enjoy limited liability protection. Further, the business would also become easily transferable and the entity would have perpetual existence. Hence, before starting a business, its best to consult an expert and register a company or LLP.

- **GST Registration**

All types of entities and individuals who have an aggregate annual turnover of more than Rs.20 lakhs in most State and Rs.10 lakhs in Special Category States are required to obtain GST Registration. Further, any person supplying goods involved in intra-state supply is required to obtain GST Registration, irrespective of turnover.





In addition to the above criteria, various other criteria have been provided under the GST Act, establishing the criteria for GST registration. It is important for all Entrepreneurs to understand the criteria's and obtain GST registration within 30 days of starting a business.

- **FSSAI License or Registration**

“Food safety and standard authority of India” (“FSSAI”), is responsible to verify the safety and standardization of food products nationwide. Retail stores, restaurants, modern trade outlets, kiosks and consumers alike look for this five-letter word in their food packets or containers.

Under FSSAI, the license or registration is divided into three categories namely:

- FSSAI Central License
- FSSAI State License
- FSSAI State Registration



DISPUTE RESOLUTION

National Company Law Tribunal and Appellate Tribunal

The NCLT plays a crucial role in the resolution of disputes relating to corporate law. Its objective is to provide an efficient and effective forum for the resolution of such disputes, which is essential for the growth and development of the corporate sector in India.

The NCLT has the power to hear and decide on cases relating to various matters, including those related to mergers and acquisitions, oppression and mismanagement, winding up of companies and other matters related to corporate law.

One of the significant advantages of the NCLT is that it provides a single forum for the resolution of disputes relating to corporate law. This helps in reducing delays and ensures consistency in the application of laws relating to corporate disputes.

The NCLT also has the power to appoint insolvency professionals in cases relating to insolvency and bankruptcy, which helps in the efficient and effective resolution of such cases.

Mediation and conciliation

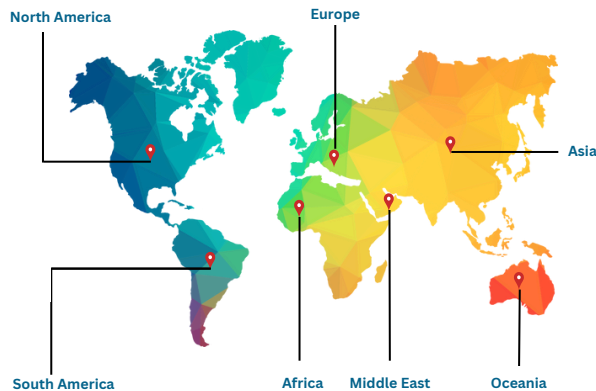
- Mediation and conciliation play crucial roles in resolving disputes related to corporate and commercial matters in India, from a legal standpoint. These two alternative dispute resolutions (“ADR”) mechanisms are widely recognized as effective and efficient methods for settling conflicts outside of traditional litigation.
- Mediation involves the intervention of a neutral third party, known as a mediator, who assists the disputing parties in reaching a mutually acceptable solution. The mediator facilitates communication, identifies common interests, and helps generate creative solutions to the issues at hand. Unlike a judge or an arbitrator, the mediator does not impose a decision but instead guides the parties towards a resolution they both find satisfactory.
- Conciliation is a similar process to mediation, where a conciliator assists the parties in resolving their disputes. However, the conciliator takes a more active role by proposing solutions and encouraging the parties to reach an agreement. Again, the process is voluntary and any resolution reached is based on the parties' consent.
- Both mediation and conciliation have distinct advantages over traditional court litigation. They offer a more collaborative and non-adversarial approach, which can foster better relationships between the parties involved. Moreover, these methods often result in quicker and cost-effective resolutions, as they avoid the lengthy and expensive court proceedings.

HOW WE CAN HELP?

As a premier law firm specializing in corporate and commercial matters, our team offer comprehensive legal solutions to businesses of all sizes. With our expert team of skilled attorneys, we provide tailored advice and representation in various areas, including company formation, contract drafting, mergers and acquisitions, regulatory compliance, intellectual property protection, dispute resolution and more.

- **Legal Consultation:** Offer legal advice and consultation to businesses on various corporate and commercial issues, including company formation, corporate governance, compliance, contracts, mergers, acquisitions, and intellectual property matters.
- **Contract Drafting and Review:** Draft and review commercial contracts, agreements, and memoranda of understanding (“MOUs”) to ensure that the terms are fair, enforceable and protect the client's interests.
- **Corporate Governance:** Advise on corporate governance practices, board composition, director's duties and compliance with corporate laws and regulations.
- **Mergers and Acquisitions:** Assist clients in mergers, acquisitions, and other corporate restructuring activities, including conducting due diligence, preparing transaction documents and obtaining necessary approvals.
- **Intellectual Property Protection:** Help clients with intellectual property matters, including trademark registration, copyright protection and handling infringement cases
- **Dispute Resolution:** Represent clients in corporate and commercial disputes through negotiation, mediation, arbitration, or litigation, depending on the nature of the matter.

SERVING CLIENTS WORLDWIDE



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