

July 2024 Vol XV - 8

In this Issue...

- Message from the Managing Partner
- Article: Understanding The Time And Place of Formation of E-Contracts
- Article: From Merger Hype to Sustainable Growth: Unveiling the Long-Term Performance of M&A Deals
- New Provisions of BNS, 2023 & BNSS, 2023
- Reactions to the New Criminal Laws from Leading Legal Luminaries...
- Legal Quiz
- Social Events

In the News...

- No Government Servant Can Claim Promotion As Their Right: Supreme Court :[Read More...](#)
- Copyright Cannot Be Granted To Ideas And Generic Terms Used Commonly In the Public Domain. Delhi High Court Invalidates Registration Of Phrase 'Coming Soon' :[Read More...](#)
- Madras High Court Upholds Transgender Rights: All Transgender Persons Must Be Provided Horizontal Reservation :[Read More...](#)
- Can arbitral awards be modified by Courts? The Constitution bench of the Supreme Court to decide : [Read More...](#)



S.K. SINGHI
Founder & Managing Partner

Message from the Managing Partner

Dear Readers,

It gives me tremendous pleasure to hand over the July 2024 edition of the in-house News letter, "THE EXHIBIT".

With the rise of globalisation, businesses are increasingly engaging in cross-border transactions. This necessitates legal expertise that can navigate the complexities of multiple jurisdictions, international regulations, and varying legal systems.

Technological advancements have made it easier for law firms to communicate, collaborate, and provide services globally. Video conferencing, cloud computing, and document-sharing platforms enable lawyers to work seamlessly across different locations and time zones.

Clients, particularly multinational corporations and high-net-worth individuals, require legal services that can address their global needs. They seek law firms with expertise in multiple jurisdictions to handle their international affairs efficiently.

As legal issues become more complex and specialised, clients look for law firms with niche expertise in specific areas of law. This has led to the emergence of global law firms that specialise in international arbitration, intellectual property, mergers and acquisitions, and international trade.

Efforts to harmonise laws and regulations across different countries and regions, such as trade agreements and international conventions, have facilitated the globalisation of legal services by creating common frameworks and standards.

Law firms have expanded their presence beyond home countries to establish offices in key international markets. This allows them to provide localised services and better serve clients with global interests. The globalisation of law services reflects the modern world's interconnectedness and the need for legal expertise that transcends national borders.

At S.K. Singhi & Partners LLP, we have opened international dedicated desks to serve clients globally. Our team regularly visits foreign countries to render legal services, arbitrations, and alternate modes of dispute resolution.

As a Managing Partner of S.K. Singhi & Partners LLP, I had the privilege of attending the AEA Annual Congress of 350 Advocates in Budapest, Hungary, recently. The interaction reflected the globalisation of law firms in a big way.

The opening up of Legal sector for foreign lawyers and law firms in other jurisdictions with operating restrictions have opened up scope of collaborations amongst peer law firms and our law firm is also contemplating collaborations with like minded peers from foreign jurisdictions.

With profound regards,

Best wishes





Understanding The Time And Place of Formation of E-Contracts

- By: Akshaya Puthran, Principal Associate

In today's digital age, electronic contracts, or e-contracts, have become increasingly common in various industries. These agreements are formed and executed electronically, without the need for physical signatures or paper documentation. However, it is essential to understand the time and place of formation of e-contracts to ensure their validity and enforceability.

What is an E-Contract?

An e-contract is a contract created, executed, and stored electronically. These agreements are legally binding and enforceable, just like traditional paper contracts. E-contracts are often used in e-commerce transactions, software licensing agreements, and other online interactions where physical signatures are not feasible.

Time of Formation of E-Contracts

The time of formation of an e-contract is crucial for determining when the agreement becomes legally binding. In most cases, an e-contract is formed when the acceptance of an offer is communicated to the offeror. This can occur instantaneously in online transactions, such as clicking "I agree" or "Submit" buttons on a website.

It is essential to understand the timing of contract formation to avoid disputes over when the contract was actually created. Clear communication and documentation of acceptance are key to establishing the time of formation of an e-contract.

Place of Formation of E-Contracts

The place of formation of an e-contract refers to the location where the parties entered into the agreement. In traditional contracts, the place of formation is typically where the offer was made and accepted. However, in e-contracts, the issue of the place of formation can be more complex due to the virtual nature of electronic transactions.

It is essential to consider factors such as the location of the servers hosting the electronic platform, the location of the parties involved, and any governing law or jurisdiction clauses specified in the contract.

Why Does the Place of Formation Matter?

Understanding the place of formation of e-contracts is essential for several reasons:

Legal Jurisdiction:

Different countries have varying laws and regulations regarding electronic contracts. The place of formation determines which legal jurisdiction governs the contract and resolves any disputes that may arise. It is important to be aware of the legal implications of conducting business in different locations to ensure compliance with relevant laws.

Enforcement of Contracts:

The enforceability of e-contracts can be influenced by the place of formation. Some jurisdictions may have specific requirements for electronic contracts to be considered valid and enforceable. By knowing the place of formation, parties can ensure that their contracts meet the necessary legal standards.

Data Privacy and Security:

The location where an e-contract is formed can also impact data privacy and security concerns. Different countries have varying regulations regarding the collection, storage, and transfer of personal data. Understanding the place of formation can help parties assess the risks associated with data protection and take appropriate measures to safeguard sensitive information.



From Merger Hype to Sustainable Growth: Unveiling the Long-Term Performance of M&A Deals

-By: Sindhuja Rastogi, Senior Associate

Mergers and acquisitions, or M&As, have long been hailed in corporate planning as a quick way to achieve growth, market dominance, and enhanced shareholder value. The corporate world is often rocked by the news of a significant M&A deal, sending stock prices skyrocketing and analysts abuzz with talk of possible synergies and market disruptions. A considerable query, nevertheless, becomes apparent as the years and dust settle: Do these well-known unions fulfil their claims of long-term wealth creation and sustainable growth?

The Allure of M&A: Understanding the Hype

Corporate strategy has long revolved around mergers and acquisitions. It's easy to see why: businesses can take advantage of economies of scale to save a lot of money while swiftly growing their market share, adding new people or technology, and diversifying their product mix. M&As provide a seductive, quick development path that organic expansion alone may take years to accomplish due to rapid technology changes and global competition.

An upsurge in bullish forecasts usually follows the announcement of a significant agreement. Analysts praising the possible synergies are joined by executives with optimistic visions of smooth integration and dominant market share. Stakeholder expectations and stock prices may rise due to the buzz generated by media coverage of these themes. However, the complicated realities and difficulties that lie ahead are frequently hidden by this first exhilaration.

Examining M&As' long-term success is necessary to fully comprehend their influence; we must focus on more than just the immediate buzz.

The Reality Check: Long-Term Performance Metrics

The findings of several studies that have tried to determine the long-term viability of M&A transactions are alarming. According to King et al. (2004), a meta-analysis of M&A studies shows that acquisitions typically don't result in better financial performance. They could have a detrimental impact on the performance of the acquiring business in the years after the transaction.

This pattern is further supported by a more recent study. According to a 2019 Deloitte analysis, just 23% of acquisitions met their declared aims, while 55% fell short of their strategic objectives. The upbeat forecasts that frequently accompany M&A announcements stand in sharp contrast to these figures.

To understand why so many M&As struggle to deliver long-term value, it's essential to examine several key performance metrics:

1. Financial Performance: Long-term financial metrics like revenue growth, profits per share (EPS), and return on investment (ROI) give a more realistic view of an M&A's performance than short-term stock price fluctuations.
2. Market Share and Competitive Position: Have rivals erased any early gains, or has the merged company been able to seize and hold a bigger portion of the market?
3. Innovation and Product Development: Merging R&D skills are a significant motivator behind many M&A transactions. Success in the long run frequently depends on how well the combined company can continue or even spur innovation.

4. **Customer Satisfaction and Retention:** Mergers may strain long-standing customer relationships. Monitoring customer data over time helps determine whether the acquisition improved or decreased the business's value proposition.
5. **Employee Satisfaction and Retention:** Human factors are critical. High turnover rates and low staff engagement might undercut a merger's potential benefits.
6. **Synergy Realization:** Cost savings or revenue synergies are often used to justify mergers and acquisitions. Tracking the actual implementation of these synergies over time is critical for determining transaction success.

Lessons for Sustainable M&A Growth

Drawing on academic research and real-world examples, several critical lessons emerge for organisations aiming to achieve sustainable development through M&As.

1. Priorities Strategic Fit;
2. Conduct Extensive Due Diligence;
3. Prepare for Robust Integration;
4. Priorities Culture;
6. Priorities Talent Management;
7. Evaluate Long-Term Performance;
8. Communicate Effectively.

Conclusion: From Hype to Sustainable Reality

As we've seen, the path from merger euphoria to long-term development may take time and effort. While mergers and acquisitions remain a popular strategy for business expansion, their long-term viability still needs to be assured. The harsh fact is that many transactions fail to deliver on their original promises, destroying wealth rather than creating it.

However, this does not imply that mergers and acquisitions are fundamentally defective. Instead, it emphasises the importance of a sophisticated, long-term approach to these complicated transactions. Companies may increase their chances of attaining long-term development through M&As by learning from their successes and mistakes.



Our Senior Associate, Sindhuja Rastogi has been awarded the Lex Falcon Global Award 2024 in the category of Emerging Lawyer in a Law Firm.

**New Provisions of Bhartiya Nagrik Suraksha Sanhita, 2023
and Bhartiya Nyaya Sanhita, 2023**

Provision	Sections	Bhartiya Nagrik Suraksha Sanhita, 2023
When Police may arrest without a warrant	S.35	S.35 – Notice of Appearance before Police Officer (S.41 A of CrPC) now added in S.35
Recording of Search and Seizure through Audio Visual Electronic Means	S.105	Recording of the process of search and seizure is preferable through mobile phone and should be forwarded to the Magistrate without delay.
Attachment, forfeiture, and restoration of property	S.107	New provision to provide powers to the police officers for attachment, forfeiture, and restoration of property which are proceeds of crime in a time-bound manner.
Letter of request to the competent authority for investigation in a country or place outside India	S.112	New provision added for the investigation of evidence that may be available outside India by issuing a letter of request to the Court outside India and forward the evidence to the Court issuing letter.
Letter of request from a country or place outside India to a Court or an authority for investigation in India.	S.113	Investigation of evidence which may be available in India which the Central Government may direct if it thinks fit on receiving a letter of request from a Court outside India.
Persons bound to confirm to lawful directions of Police	S.172	Gives powers to police officers to detain any person who resists, refuses, or disregards any order or direction given by him under the lawful discharge of his duty.
Evidence of public servants, experts, police officers in certain cases	S.336	For seeking evidence of successors in the officer of public servants, police officers, and experts if they are unable to appear before the court due to retirement, transfer, death etc.
Inquiry, trial or judgment in absentia of proclaimed offender	S.356	A provision added for trial in absentia of a person who is a proclaimed offender and there are no prospects of arresting him. His right shall be waived, and trial shall be conducted as if he were present.
Witness protection scheme	S.398	A provision providing State Governments to prepare a scheme for the protection of witnesses.
Trial and proceedings to be held in electronic mode.	S.530	This provision specifies that all trials, inquiries, and proceedings under this Sanhita may be held in electronic mode by use of electronic communication or use of audio-video electronic means.

BHARTIYA NYAYA SANHITA is among the three criminal laws bills aiming to replace the longstanding IPC, 1860, from 01.07.2024. BNS has 358 Sections.

One hundred seventy-five sections have been changed, eight new Sections have been added, and 22 Sections have been repealed.

BHARTIYA NYAYA SANHITA mainly retains IPC provisions, recognises new offences, eliminates court-invalidated offences, and raises penalties for some offences.

Significant Amendments in the Legislation are: -

- **Section 69** of the BNS stipulates penalties for engaging in sexual intercourse through deceptive means, i.e., deceptive commitments regarding job advancement, inducements, or marriage while concealing one's identity.
- **Section 111** of the BNS identifies organised crime as an offence and specifies its penalty. This includes activities such as kidnapping, extortion, contract killings, etc., as a member of a criminal syndicate.
- **Section 113** penalises terrorism involving acts intending or likely to threaten India's unity, integrity, security, sovereignty, or economy or to instil terror in people domestically or abroad.
- **Section 150** eliminates the sedition law to uphold citizens' right to speak, introducing a new form of sedition as subversive activities with punishment up to imprisonment for life.
- **Section 195** prescribes penalties for disseminating false information through spoken words, signs, writing, representation, or electronic means.
- **Section 226** stipulates a penalty for an attempt to commit suicide with intent to restrain the exercise of lawful power.
- **Section 101** expands murder grounds, while **Section 103** penalises individuals acting together based on race, caste, sex, and place of birth.
- **Section 304** identifies snatching as an offence and specifies its penalty.

Reactions to the New Criminal Laws from Leading Legal Luminaries...

The new laws—Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and the Bharatiya Sakshya Adhiniyam (BSA)—came into effect across the country from July 1, 2024

The three new criminal laws, which replaced the British-era penal statutes on Monday, have evoked mixed reactions from legal luminaries, hailing them as a 'significant step' towards modernising the criminal justice system while others terming them as 'draconian' and 'cosmetic'.

Senior advocate Abhishek Singhvi said an opportunity to make genuine reforms has been wasted, and "cosmetic changes" have been brought about in new laws, disregarding the crucial aspect of massive pendency of cases in courts, especially in trial courts.

Congress MP Manish Tewari called the new laws "pernicious in nature, draconian in their implementation." Activist lawyer Kamini Jaiswal concurred with Tewari and called them a "disaster."

Significantly, the apex lawyers' body, the Bar Council of India (BCI), supported the laws and urged all bar associations nationwide to refrain from any immediate agitation or protest against implementing the new criminal laws.

“THE EXHIBIT” hopes the much-awaited new criminal laws will bring further sanity in the dispensation of Justice and lubricate all-around harmony and growth.

SKS Legal QUIZ July 2024

We welcome young college students of Law Colleges to participate in the following Quiz.
The winners shall be offered priority Apprenticeship at any of our offices at Kolkata, Mumbai and New Delhi.
For replies please click on this link .. [SKS Legal Quiz](#)

1. Which is the first High Court in India to take suo moto cognizance of incessant occurrence of heatwaves across India during the summer season in 2024, due to climate change?
 - a. High Court of Bombay
 - b. Rajasthan High Court
 - c. High Court of Madhya Pradesh
 - d. High Court of Delhi
2. In which of the following cases did the NCLAT held that failure by the Corporate Debtor to raise the defense of Section 10A of the Insolvency and Bankruptcy Code not bar the Adjudicating Authority from rejecting an application which is otherwise barred under Section 10A of the Code?
 - a. Bhavit Sheth v. Madan Bajrang Lal Vaishnawa (Company Appeal (AT) (Insolvency) No. 328 of 2024).
 - b. Noil Christuraj v. State Bank of India (Company Appeal (AT) (CH) (INS) No. 284 of 2023),
 - c. Milind Kashiram Jadhav v. State Bank of India and Ors. (Company Appeal (AT) (Insolvency) No. 1589 of 202),
 - d. Namdev Hindurao Patil v. Virendra Kumar Jain, Liquidator (Comp. App. (AT) (Ins) No. 858 of 2023 & I.A. No. 2925 of 2024)
3. The Supreme Court of Indian has evolved Curative Petition in the case of?
 - a. Rameshwar Prasad v Union of India
 - b. Hussainara Khatoon v Home Sec. Bihar
 - c. M.K. Rai v Union of India
 - d. Rupa Ashok Hurra v Ashok Hurra & Anr.
4. Which of the following matters do not come under the purview of “commercial dispute” as defined in the Commercial Courts Act, 2015?
 - a. Matters relating to export or import of merchandise or services
 - b. Matters relating to franchising agreements;
 - c. Disputes arising from partnership agreements
 - d. Disputes involving the mismanagement of funds of a company.
5. Which of the following Acts is not applicable on Public Charitable Trusts in India?
 - a. The Indian Trusts Act, 1882
 - b. Charitable and Religious Trusts Act 1920
 - c. Charitable Endowments Act 1890.
 - d. All of the above.
6. Recently, the Supreme Court overturned a 2007 judgment and has held that services provided by lawyers are contracts of personal service and therefore excluded from the definition of services under the Consumer Protection Act. Which of the following judgments of the National Consumer Disputes Redressal Commission did the Apex Court overrule?
 - a. D.K. Gandhi v M. Mathias
 - b. M/S Pyaridevi Chabiraj Steels Pvt Ltd v National Insurance Company Ltd & Ors
 - c. Accounts Officer, Jharkhand State Electricity Board v. Anwar Ali,
 - d. Afcons Infrastructure Ltd. and Anr v. Cherian Varkey Construction Co.(P) Ltd and others

Continued...

7. What is the punishment for any offence committed by a juvenile under the Motor Vehicles Act, 2019?
- Imprisonment for a term which may extend to three years of the Guardian along with a fine of twenty-five thousand rupees
 - Cancellation of registration of the motor vehicle used in the commission of the offence for a period of twelve months
 - The juvenile shall not be eligible to be granted a driving licence or a learner's licence until such juvenile has attained the age of twenty-five years.
 - All of the above along with any custodial sentence as per the provisions of the Juvenile Justice Act, 2000 (56 of 2000)
8. Which of the following High Courts has not been established by a Letters Patent?
- High Court of Bombay.
 - Madras High Court.
 - High Court of Delhi
 - Calcutta High Court.
9. What is the time limit to complete an arbitration proceeding initiated under Section 18 of the MSMED Act, 2006?
- 2 years.
 - 330 days
 - 180 days
 - 90 days
10. Which section of the Companies Act, 2013 mandates a 21 days' clear notice to be served upon all the members for all general meetings of the Company?
- Section 101
 - Section 136
 - Section 134(7)
 - Section 102
11. Which committee recommended the inclusion of Zero FIR in Bhartiya Nagrik Suraksha Samhita?
- Justice J.S. Verma Committee
 - Justice Sanjiv Khanna Committee
 - Justice B.V. Nagarathna Committee
 - Justice P.S. Narasimha Committee
12. What is the statutory time prescribed under Section 15 for completion of preliminary assessment under the Juvenile Justice Act?
- One Week.
 - One Month.
 - Three Months
 - One Year

Social Events



**Managing Partner Shri S K Singh
addressing the AEA Annual Congress at
Budapest, Hungary.**



**Managing Partner with AEA
President in Budapest, Hungary.**



**More than 350 lawyers of eminence participated
in AEA Congress**



**Our Mumbai office Associate Adv. Chandresh Rao
was honoured by Shri Deepak Thakkar,
Presiding Officer, DRT II, Mumbai.**

CONTACT DETAILS

KOLKATA OFFICE : Raja Chambers, 1st Floor, 4, Kiran Shankar Roy Road Kolkata – 700 001,
P: +91 33 22318652 , E: kolkata@skspartners.law

NEW DELHI OFFICE: D-75, Lower Ground Floor, East of Kailash, New Delhi – 110065
P: +91 11 26425568, E: delhi@skspartners.law

MUMBAI OFFICE: 134A, Level 13, Mittal Court A Wing, Nariman Point, Mumbai-400021
P: +91 22 4971 8652, E: mumbai@skspartners.law

CHENNAI OFFICE: S-87, 2nd Floor. Phase 3, Spencer Plaza, Anna Salal, Chennai - 600002.
P: +91 44 4850 0558, E: chennai@skspartners.law

Disclaimer This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, SKS, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Without prior permission of SKS, this publication may not be quoted in whole or in part or otherwise referred to in any documents. In case you have any suggestions or do not wish to receive our newsletter, please email us at : theexhibitfeedback@skspartners.law (All rights reserved)