

January and February 2025 Vol XV - 15

In this Issue...

- Message from the Founder & Managing Partner
- Article: Role of Legal Services in Making India a \$5.0 trillion Economy
- Article: Can Banking Function Without the Support of Law?
- Article: Group Insolvency
- Legal Quiz
- Social Events

In the News...

- Can HC Appoint a Sole Arbitrator When the Arbitration Clause Provides For the Unilateral Appointment Of an Arbitrator? Supreme Court To Consider [Read More..](#)
- Serious Doubt About NGT's Jurisdiction To Direct Prosecution Under PMLA: Supreme Court [Read More..](#)
- Section 498A case against husband's kin can't be dropped without proper evaluation: Kerala High Court [Read More..](#)
- Settlement of dues only after examining all options, RBI to ARCs [Read More..](#)



S.K. SINGHI
Founder & Managing Partner

Dear All,

It gives me an immense pleasure to present the January and February 2025 edition of "The EXHIBIT".

I am delighted to share that we have successfully inaugurated LEXITS – SKS Centre for Legal Disputes Management & Strategy on the 4th January, 2025 at a grand ceremony held at Bharat Mandapam, New Delhi.

The Centre was formally inaugurated by the Ld. Attorney General of India, Mr. R Venkataramani amidst a distinguished gathering of Judges, Senior Lawyers, University Professors, Industry experts, Corporate leaders including Dr. G Satheesh Reddy, Former Chairman DRDO, Shri Harsh Vardhan Shringla, Ex Foreign Secretary, Ambassador Dr Ausaf Sayeed, Ex Foreign Secretary, Lt Gen CP Mohanty, Ex Vice Chief of Army, Justice Rajesh Tandon, Justice Sangita Dhingra Sehgal and Dr Lalit Bhasin, President, Society for Indian Law Firms.

With the commencement of operations LEXITS aims to revolutionize the legal landscape by providing pre litigation advisory services.

The objective of LEXITS is to significantly reduce litigation across India by empowering potential litigants with informed strategic legal insights at the pre-litigation stage.

In today's globalized environment, LEXITS extends its services to International Investors enabling them to make well informed decisions regarding the complexities surrounding their current and prospective investments in India.

Operating through a dedicated digital platform, LEXITS is now accessible worldwide at www.lexits.in providing seamless access to our expert advisory services.

We look forward to your continued support as we embark on this journey to reshape the pre litigation advisory landscape and contribute to the ease of doing business in India.

Happy Reading in a Happy New Year!

Best wishes



LEXITS INAUGURATED:

(SKS Centre for Legal Disputes Management & Strategy)

LEXITS has been inaugurated by Hon'ble Attorney Genral of India,
Shri R.Venkataramani on 04.01.2025 in New Delhi



LEXITS is an initiative of M/s S.K.Singhi & Partners LLP, a well-known and reputed Indian Law Firm.

Establishing LEXITS is to provide Pre-Litigation advice and create a litigation portfolio based on predictive analysis. This enables litigants to make informed decisions (pre-litigation, litigation, and post-litigation) about their legal disputes.

The whole idea is to reduce the burden of pendency of the cases before the courts and make the litigant aware of the likely outcome of its dispute, timelines, cost and the uncertainties involved, as well as the alternate options available for them.

The portfolio-based advice to be given by the team of LEXITS is the result of independent research, work and vetting of the Patrons and Advisors who are the retired Supreme Court and High Court judges, the practising Senior and other expert counsels in their fields across various courts. The Centre is ably supported by the intellect think tank, which enables the litigant to make an informed decision rather than just filing the case without knowing the likely outcome, which one will understand after the lapse of use time at the expense of cost and uncertainties.

In addition to the primary objective of offering a comprehensive solution to stakeholders via a global platform from the convenience of their own countries, another significant aim of establishing LEXITS is to mitigate the burden of the judiciary's case backlogs. It seeks to apprise litigants of the uncertainties and the alternative avenues available.

LEXITS provides legal expertise and advice for effectively managing disputes between parties. Its social objective is to resolve conflicts effectively by minimising the time, cost, and effort that mar the conventional dispute resolution system.



Role of Legal Services in Making India a \$5.0 trillion Economy

-By: Akshay Singhi, Senior Partner

India aims to be a \$5 trillion economy by 2027. Several sectors play a significant role in this goal, including infrastructure development, exports, manufacturing, and services. Efficient legal services are crucial for fostering economic growth by creating a supportive business environment.

A well-developed legal system attracts foreign investment, promotes trade, and encourages entrepreneurship. However, India's legal system is often criticised for being slow and inefficient. To reduce the backlog of cases, we need to increase the number of judges and courts. Additionally, we should promote alternative dispute resolution mechanisms, such as arbitration and mediation, to reduce the burden on the courts. Simplifying regulations can reduce compliance costs and encourage businesses to invest in India.

India must consolidate laws, reduce regulations, and promote industry self-regulation. Intellectual property protection encourages innovation and entrepreneurship. IP laws must be strengthened to prevent piracy.

Legal services are crucial in helping India achieve its goal of becoming a \$5.0 trillion economy. A robust and efficient legal system fosters economic growth by ensuring the rule of law, promoting ease of doing business, and creating a secure environment for investors. Here's how legal services can contribute to this goal:

1. Facilitating Ease of Doing Business

Simplifying Legal Procedures: Streamlining regulatory and compliance requirements can reduce bureaucratic hurdles, making it easier for businesses to start and operate.

Fast-Tracking Dispute Resolution: Establishing fast-track commercial courts and alternative dispute resolution (ADR) mechanisms like arbitration and mediation can reduce the time and cost of settling disputes.

Improving Contract Enforcement: Strengthening contract enforcement mechanisms ensures businesses can confidently operate, reducing risks.

2. Attracting Foreign Investment

Clear Investment Policies: Legal services help create transparent policies that attract foreign direct investment (FDI) while protecting investors' interests.

Intellectual Property Protection: Ensuring substantial intellectual property (IP) laws encourage innovation and safeguard investors' innovations.

Bilateral and Multilateral Agreements: Legal experts can help negotiate and draft trade agreements to expand India's global trade partnerships.

3. Supporting Startups and Innovation

Startup-Friendly Policies: Legal services can help startups comply with regulations, secure funding, and protect intellectual property.

Promoting Technology Laws: Addressing data privacy, cybersecurity, and fintech regulations can create an environment conducive to innovation.

4. Strengthening Infrastructure Development

Public-Private Partnerships (PPP): Legal experts can design PPP frameworks that balance public interests and private sector profitability, accelerating infrastructure projects.

5. Empowering Labor Laws and Social Justice

Labour Law Reforms: Simplifying labour laws can protect workers' rights while ensuring businesses are not overburdened by compliance.

6. Environmental and Sustainable Development

Clear Environmental Laws: Legal services can help balance economic development with environmental sustainability and ensure compliance with green laws.

Climate Financing Frameworks: Legal expertise can assist in structuring agreements to attract climate finance and promote sustainable projects.

A strong legal framework serves as the backbone of economic growth, providing a predictable, secure, and fair environment for businesses and investors. By modernizing its legal infrastructure, India can enhance its global competitiveness, attract more investment, and ensure inclusive and sustainable development, aiding the nation in its goal to become a \$5.0 trillion economy.



Can Banking Function Without the Support of Law?

-By: Hargovind Sachdev, Banking Advisor

Banking and Law are intertwined. Banking strives through legal processes, and Law thrives on Banking, which cannot function without law. Banking laws and regulations provide the framework for the operation of banks and financial institutions.

Banking is deeply dependent on law because it operates within a highly regulated framework to ensure trust, stability, and fairness in the financial system. Banks handle money and financial assets, so legal oversight ensures customers' confidence in the system. Laws like deposit insurance schemes protect depositors, reducing panic during economic crises. Banks need legal authorisation to operate, ensuring they meet minimum stability, security, and solvency standards.

Laws dictate how banks lend, invest, and manage risks to protect customers and the economy. Laws prevent the banking system from being used to launder money or finance illegal activities. Legal frameworks safeguard against fraudulent practices by employees or external entities.

Laws ensure banks clearly disclose interest rates, fees, and terms to customers. Legal protections guard against predatory lending, discrimination, and unfair practices. Central banks rely on legal authority to regulate the monetary supply, set interest rates, and oversee banks to maintain economic stability. Disputes between banks, customers, or regulators are resolved within a legal framework, ensuring accountability and fairness.

International banking laws and agreements (such as the Basel Accords) govern cross-border activities and standardise rules for multinational banks. These laws limit risky activities to prevent crises that destabilise the financial system, such as the 2008 economic meltdown.

The Banking Regulation Act governs the operations of banks in India. The Basel Accords (Global) set international banking standards that apply to all Indian banks. Banking laws provide a regulatory framework that governs bank operations, ensuring they operate safely and soundly. This framework includes capital requirements, liquidity standards, and risk management guidelines. Banking laws protect depositors' funds by requiring banks to maintain adequate capital, liquidity, and risk management systems. This ensures that depositors' funds are safe and can be withdrawn.

Banking laws help maintain financial stability by regulating the activities of banks and other financial institutions. This includes requirements for capital buffers, stress testing, and resolution planning. Banking laws provide a framework for contract enforcement, ensuring that banks and their customers can enter into binding agreements. These laws govern loan agreements, deposit accounts, and other banking contracts.

Banking laws provide mechanisms for dispute resolution, ensuring that disputes between banks and their customers can be resolved efficiently and fairly. Banking laws provide the necessary framework for the operation of banks and other financial institutions. They ensure the safety and soundness of the economic system, protect depositors and consumers, and prevent financial crimes. Banking and law are deeply intertwined because the banking system's stability, trust, and functionality rely on a robust legal framework. Here's why banking cannot function without law:

1. Regulation and Oversight

- Banks deal with public money, so governments establish laws and regulatory bodies to ensure they operate securely and ethically. Laws also establish licensing, capital reserves, and financial reporting requirements to prevent fraud, insolvency, and mismanagement.

2. Trust and Confidence

- Banking relies on public trust. Legal protections, such as deposit insurance, anti-fraud statutes, and dispute resolution mechanisms, ensure that customers feel secure about depositing their money. Without legal enforcement, this trust would erode.

3. International Trade and Relations

- Global banking transactions require adherence to international laws and agreements governing currency exchange, cross-border payments, and trade finance.

4. Equality and Fair Access

- Legal frameworks ensure non-discriminatory lending and banking services practices, promoting equality and economic inclusion.

Without law, the banking system would lack accountability, transparency, and trust, leading to chaos, exploitation, and economic instability. Laws provide the foundation for orderly operations and safeguard the interests of individuals, businesses, and the broader economy. Without these laws, banking as we know it would not be possible.



Group Insolvency

-By: Nishi Yadav, Associate

Group insolvency involves the collective insolvency proceedings of multiple companies within a corporate group, aiming to address the financial challenges of the entire group rather than individual entities. This approach seeks to maximize asset value and streamline the resolution process by considering the interconnectedness of group members.

In India, the Insolvency and Bankruptcy Code (IBC) primarily focuses on individual corporate entities. However, there is growing recognition of the need for a framework to address group insolvency. The Insolvency and Bankruptcy Board of India (IBBI) has acknowledged the importance of such a framework to enhance the resolution process for corporate groups.

In the Indian context, group insolvency involves the application of the Insolvency and Bankruptcy Code (IBC) to groups of companies facing financial distress. The IBC, enacted in 2016, is India's primary legal framework to resolve insolvency and bankruptcy issues. While it was designed to handle insolvencies of individual entities, the unique dynamics of group companies require special consideration. Often, these companies have interlinked assets, liabilities, and business operations, making the resolution of insolvency a more complicated process.

Insolvency is a critical issue for any business, and when it occurs within a corporate group, the financial consequences become more complicated. In India, the insolvency process is guided by the Insolvency and Bankruptcy Code, 2016 (IBC), which has revolutionized the way insolvency is handled. However, the issue of group insolvency, particularly for large corporate groups with multiple entities, presents unique challenges. Group insolvency in India involves the insolvency of a corporate group—usually consisting of a parent company and its subsidiaries—where multiple entities face financial distress simultaneously.

The core objective of group insolvency is to find a fair and orderly resolution for the collective interest of creditors, while ensuring the survival of viable businesses within the group. Unlike individual insolvency, group insolvency necessitates dealing with the interrelationships between multiple entities, which may involve complex cross-border considerations, intricate debt restructuring, and the allocation of assets and liabilities.

While India does not yet have a comprehensive legal framework for group insolvency, there have been several steps taken to address the unique challenges it presents.

1. Amendments to the Insolvency and Bankruptcy Code (IBC)

The Indian government has acknowledged the complexities of group insolvency and is considering introducing specific provisions for it under the IBC. In the past, the government has introduced amendments to the IBC, including the introduction of the concept of cross-border insolvency in the context of global companies.

One of the significant amendments, the Insolvency and Bankruptcy Code (Amendment) Act, 2020, clarified provisions related to the resolution of insolvency, and this includes provisions relevant for group insolvency. These amendments aim to streamline the process of resolving insolvencies across companies with a complex ownership structure.

2. Corporate Insolvency Resolution Process (CIRP)

One of the most significant developments in the management of group insolvency is the Corporate Insolvency Resolution Process (CIRP). In cases where the companies in a group share interconnected financial relationships, a single, consolidated CIRP can be initiated for multiple entities within the group. This process seeks to reduce the time and cost involved in managing several parallel insolvency proceedings.

In such cases, the Insolvency Resolution Professional (IRP) manages the insolvency of all the companies in the group. This would, ideally, allow creditors to settle claims in an orderly manner while avoiding conflict between different insolvency proceedings.

3. Group-wide Resolution Frameworks

In 2019, the Insolvency and Bankruptcy Board of India (IBBI) proposed frameworks that aim to handle group insolvencies in a more coordinated manner. These frameworks focus on ensuring that the resolution of one company in a group doesn't disrupt the resolution of other companies within the same corporate family.

These proposals also emphasize the need for creating specific committees and procedures to enable the consolidation of debts and claims in a manner that ensures all creditors are treated equitably, while at the same time, preserving the viability of the operational units within the group.

Continued...

4. Inter-Creditor Agreements and Coordination

In group insolvencies, one of the significant challenges is dealing with the diverse set of creditors of different companies within the group. As seen in several recent insolvency cases, creditors' interests are often conflicting, which makes the resolution process difficult. To address this, the government has encouraged the formation of inter-creditor agreements (ICAs). ICAs are agreements between creditors within a group to resolve disputes and prioritize claims in a way that promotes group-wide resolution.

While the legal framework of the IBC doesn't explicitly address group insolvency, recent case laws in India have tried to fill the gaps and provide clarity on how insolvency proceedings can be managed for corporate groups. Some of the important case laws in this regard include:

1. Bikram Chatterji v. Union of India

Homebuyers in projects built by various companies of Amrapali group filed a writ petition before the Supreme Court to safeguard their interests following the insolvency of various Amrapali group companies. In these proceedings, the Supreme Court addressed the group as a whole. The Court also mandated that the assets of all forty group firms in the Amrapali group be attached and that all bank accounts belonging to the companies and their directors be frozen due to the nature of the transactions between the group companies.

2. Venugopal N. Dhoot v. State Bank of India

In order to treat “the corporate insolvency resolution process as one in respect of all of the companies”, the parties in this case requested that the same Adjudicating Authority handle all issues pertaining to the insolvency resolution of multiple Videocon companies and that the separate proceedings of Videocon companies be consolidated. In order to “avoid conflicting orders and facilitate the hearing” of these proceedings, the Principal Bench of the NCLT ordered that all matters pertaining to the insolvency resolution processes of these several entities be handled by the same bench of the NCLT.

3. Edelweiss Asset Reconstruction Company Limited v. Sachet Infrastructure Private Limited

In this case, NCLAT held that “group insolvency proceedings were required to be initiated” against five companies that had been working as joint consortium to develop a residential colony. Taking into consideration the facts of the case and enabling successful development of the colony, the NCLAT ordered “continuation of simultaneous corporate insolvency resolution processes against them under the guidance of the same Resolution Professional. The Resolution Professional was also ordered to initiate a consolidated 'Resolution Plan(s)' for total development”.

Group insolvency in India remains a highly complex area of corporate law that requires tailored solutions to resolve the unique challenges presented by multiple interrelated companies. While the Insolvency and Bankruptcy Code (IBC) provides a foundational framework, its existing provisions do not fully address the intricacies of group insolvency. Nevertheless, with the recent case laws, legal amendments, and proposals for group-wide resolution mechanisms, there has been significant progress in handling the issue.

India is taking steady steps to build a more robust legal framework for group insolvency, which will not only streamline the process but also create a more predictable environment for businesses and investors. The evolution of India's insolvency laws will be crucial in ensuring the efficient and equitable resolution of corporate groups in distress while protecting the interests of all stakeholders.

Group insolvency in India is a complex issue due to the interconnected nature of corporate groups and the lack of specific provisions in the Insolvency and Bankruptcy Code. The insolvency of one or more entities within a group can have far-reaching consequences, affecting creditors, employees, and other stakeholders. While the IBC offers a robust mechanism for individual insolvencies, it falls short when dealing with the challenges of group insolvency.

To address these challenges, India could consider amending the IBC to introduce provisions for group insolvency, enabling more coordinated and efficient resolution processes. By adopting a more integrated approach, India can ensure a more effective handling of group insolvency cases, benefiting both businesses and stakeholders in the long term.

SKS LEGAL QUIZ

We welcome young law college students to participate in this Quiz.

The winners shall be offered priority apprenticeship at any of our offices at Kolkata, New Delhi and Mumbai. For replies please click on this link : [SKS QUIZ](#)

1. The Supreme Court in a recent order barred Civil Courts across the country from registering fresh suits challenging the ownership and title of any place of worship. In context of which act has this order been passed?
 - a. Religious Endowments Act of 1863
 - b. Places of Worship Act, 1991
 - c. Hindu Religious and Charitable Endowment Act, 1991
 - d. None of the above.
2. Which of the following judgements passed by the Hon'ble High Court of Bombay states that the validity of an interlocutory order passed by an arbitrator can be challenged under Article 226/227?
 - a. Cox & Kings Ltd. v. SAP India
 - b. Punjab State Civil Supplies Corporation Ltd. & Anr. V. M/s Sanman Rice Mills & Ors.
 - c. Shri Guru Gobind Singhji Institute of Engineering and Technology v. M/s Kay Vee Enterprises.
 - d. Marg Ltd. v. SREI Equipment Finance Ltd.
3. Which of the following fundamental rights are deemed to have been violated in cases of sexual harassment at workplace?
 - a. Article 19(1)(e)
 - b. Article 21
 - c. Article 19(1)(g)
 - d. Article 23
4. Which amongst the following type of shares are issued from the capital reserve account of the company?
 - a. Equity shares
 - b. Preference shares
 - c. Bonus shares
 - d. None of the above
5. Which of the following injunctions cannot be granted only by decree made at hearing and upon the merit of the suit?
 - a. Temporary injunction
 - b. Perpetual injunction
 - c. Mandatory injunction
 - d. Prohibitory injunction
6. What kind of intellectual property is Hallmark?
 - a. Trademark
 - b. Certificate Mark
 - c. Collective Mark
 - d. Both certificate and collective mark
7. Which of the following doctrines does not fall under environmental law?
 - a. Polluter pays principle
 - b. Public trust doctrine
 - c. Doctrine of pith and substance
 - d. Precautionary principle
8. Which of the following may be considered as the first reported case of a PIL in India?
 - a. S.P. Gupta v Union of India
 - b. Hussainara Khatoon v State of Bihar
 - c. M.C. Mehta v Union of India
 - d. Kalyaneshwari v Union of India
9. In what kind of cases do Courts pass John Doe orders?
 - a. Tax evasion cases
 - b. Copyright infringement cases
 - c. Family law cases
 - d. Consumer Protection cases
10. What does the maxim 'Ubi Jus Ibi remedium' mean?
 - a. The sovereign never dies
 - b. An accessory follows the principal
 - c. When there is a right, there is a remedy
 - d. The thing perishes to its owner, the laws fall on the owner

Social Events



SKS Partners Team on the LEXITS Inauguration Day



Birthday Celebration of our Managing Partner



Birthday Celebration at our Kolkata Office



S.K.Singhi & Partners LLP has been recognized with the Prestigious Award for “Best Practices, Initiatives, and Innovations of the Year 2024” at the Business Excellence Awards 2024, organized by ASSOCHAM

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