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MERGERS AND ACQUISITIONS REGULATIONS

~ROHIT YADAV

INTRODUCTION

Mergers and Acquisitons are interchangeably used although they have different legal meanings. Mergers means integration of two entities into one. In short in India mergers are called Amalgamation. In Amalgamation, at least two entities are needed to form a new entity. The acquisition means absorbing or buying the entity. Basically, taking over the assets and liabilities of one entity and influencing the voting rights. Both the entities separately exist whereas in mergers there is the dissolution of one entity.[1]

WHY ARE MERGERS AND ACQUISITIONS IMPORTANT FOR BUSINESSES?

1. Growth & Expansion: M&A helps companies enter new markets or increase their presence in existing ones.
2. Cost Efficiency: Merging companies can reduce duplicate costs, such as administrative expenses and marketing.
3. Competitive Advantage: Acquiring a competitor helps a company increase market share and strengthen its position.
4. Diversification: Companies acquire businesses in different industries to spread risk.[2]

LAWS GOVERNING MERGERS AND ACQUISITIONS IN INDIA

1. **The Companies Act, 2013**; Section 230-240 of the act covers the provisions relating to M&A including arrangements that cover companies, their members, and creditors. All sections except 234 became effective on 15th December 2016 and S-234 was notified on 13th April 2017.[3]

[1] Ipleaders Blog > accessed on 19 September 2026
[2] Finology legal blog . accessed on 19 September 2026
[3] The Companies Act,2013 , Section 230-240

S-230 is R.W. S-232.Talks about corporate re-structuring through compromise and arrangement.

Under S-231 Power is with NCLT to enforce compromise and arrangement by

i. Accepting the proposal
ii. Modifying the proposal and
iii. Lastly by rejecting the proposal i.e., winding up of a company if they are unable to pay a debt.[4]

Section 232 talks about the procedure for the same. Moving ahead towards Section 233 is read with Rule 25 of CAA. It talks about fast-track mergers. This section was inserted to prevent companies from going through a lengthy procedure given under S-232. Provided they need to have approval from shareholders, directors, creditors of the company. In short, each person is directly related to a company.

Section 235 & 236 deal with the purchase of minority shareholding in a company. In the case of Foss V Hardbottle[5], it was held by the court that the will of majority shareholders will prevail and the court will not interfere in the internal management of the company. However, minority shareholders can't be neglected or oppressed. But Court will ensure that majority shareholders are exercising their powers within their limits.

Section 237 says that the central government has the power for amalgamation in the public interest and also lays down the procedure for the same. It is corresponding with Section 396 of the Companies Act, 1956.[6]

National Company Law Appellate Tribunal (NCLAT) deals with all grievances under company law.

2. **Competition Act, 2002**; This act was replaced by MRTP Act 1969 to prohibit unfair trade practices, but it was not self-sufficient and had lots of loopholes. To prevent monopolistic trade practices and win people's trust competition act came into being. It dealt with all the challenges and holds a good command over globalization. This will

[4] The Companies Act 2013,Section-231
[5] [1843] 67 ER 189, (1843) 2 Hare 461
[6] The Companies Act 2013, Section-237

help in increasing the GDP in the economy. This will be achieved when we will practice fair trade policies.[7]

Objectives of this Act

i. To protect the interest of consumers;
ii. To prevent unhealthy trade practices;
iii. To prevent abuse of power;
iv. To prevent monopolistic markets and promote healthy competition in the market;
v. To provide the framework for the Competition Commission of India;
vi. To investigate the matter therewith or incidental thereto;
vii. To check anti-competitive practices.

3. The Indian Income Tax Act, 1961: Meaning of term Amalgamation has been defined in this act, it means merger of one or more companies into another company or two or more companies merged to form a new company. The company which is merged is known as amalgamating company and coin which that company is being merged or formation of the company is known as the amalgamated company. Also, all the assets and liabilities of the amalgamating company become the assets and liabilities of amalgamating company.[8]

Act also has the concept of capital gain, which means gains or profits that one receives after the sale of capital assets. Any gain from the sale of assets is our income and hence we need to pay tax for that income in the year in which we have purchased it. It can be both short term and long term.[9]

4. **The Indian Stamp Act, 1899:** The act is in enforcing in the whole of India with respect to the rate of different instruments which are commercial in nature. This is enacted by the central government, but it gives power to the state government to either use the act as it is or can modify the same. Even they can enact a different act for stamp duty for their state. Some examples are as under:

i. States which have adopted the stamp duty act are Arunachal Pradesh, Jharkhand, Uttarakhand, etc.

[7] The Competition Act 2002, Section-2,3,4 and 5
[8] The Income Tax Act 1961, Section-2(1B)
[9] The Income Tax Act 1961

ii. States which have adopted Schedule 1A with amendments are Andhra Pradesh, Punjab, Assam, Bihar, Delhi, etc.

iii. States that have their own stamp act are Gujarat, Maharashtra, Karnataka and Rajasthan, Kerala etc.[10]

5. **Foreign Exchange Management Act, 1999:** The concept of Cross border mergers is dealt with by FEMA. It means any merger, amalgamation, or arrangement between Indian and Foreign companies. FEMA regulations provide that any transaction taken with respect to cross-border will take place through RBI, as per the 25th rule of CAA Rules, 2016. Amendment of 2017 in companies act added Section 234 to the act which talks about cross border merger. In 2018 RBI notified in the official gazette about inviting stakeholders for regulations. They will have a major role as they will keep an eye on the market situation..[11]
6. **The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011:** This regulation is important for the merger, acquisition, amalgamation, compromise, arrangement for the listed companies. It prescribes that an acquirer acquiring substantial offers or casting a ballot right i.e., 25% or more, should make an open proposal to every one of the public shareholders of the objective organization.[12]
7. **Insolvency And Bankruptcy Code, 2016:** With the enactment of IBC, companies act sections from 253-269 were omitted and now Section 255 and Schedule XI deals with it. It is administered by NCLT and helps in auctioning the assets whose value has been depreciated. To start the process under the corporate insolvency resolution process one need to file an application to NCLT. Many amendments have been made timely.[13]

CONCLUSION

Mergers and acquisitions are important instruments of corporate restructuring and business growth. A merger combines businesses through a legally structured arrangement, while an acquisition involves obtaining control over another business. In India, M&A transactions operate within a comprehensive legal framework involving company law, competition law, securities regulation, taxation and, in appropriate cases, foreign-exchange regulations.

[10] The Indian Stamp Act, 1899
[11] Foreign Exchange Management Act 1999
[12] The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations,2011
[13] Insolvency And Bankruptcy Code,2016