

# Legal Issues in Startup MNCS in India under Business Law

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**Abstract**—MNCs are said to be MULTINATIONAL COMPANY which has its own wings on many countries. It seems too said to be INTERNATIONAL BUSINESS which operates on one plus country. It has played a major role on the field of economy and growth of both host country. In India, the economy of the country is both directly and indirectly depends on the MNCs in our country. Though it has both positive and negative impact over the country. Here we will deeply discuss about the problems which arise during starting up MNCs under business law in India. In this paper we have clearly mentioned about the problems which arising during the startup's and clearly gives the preventive methods for the startup MNCs and which we will deeply go through it with some remedies and solution at the result area.

**Index Terms**— Economy, international business, law field, legal remedies, preventive measures.

## I. INTRODUCTION

Every country in the world focusing on their economy to make their nation wealthier in manner. So many countries focusing on promoting the international business to gain much more revenue. In that many countries focusing on to startup Multinational companies. A Multinational Corporation is a company has business operation in at least one country other than its home country. Before starting the MNCs they need to follow the host countries methodology to start an MNC. They also need to follow the host countries law and bind by international law with legal intervention of human rights. Following the other countries legal framework will be strict to follow with reference to the other non-governmental organization have begun to pursue legal remedies. So, we can enter the topic of Legal issues in startup MNC in India under business law.

### The Main Legal Issues in Startup MNC

The first and foremost thing which a MNC company need to focus on legal framework of host country. They need to touch a hand on the field of international law, Employment law, Intellectual Property Law, Law of contracts, Taxation law, Business acquisition and data protection. One of the operational barriers that companies looking to expand beyond their boundaries often comes up against. Now it is a particularly attractive time for international expansion all the statistics show. Leading exporting countries such as the United States, Netherland and China have seen their international business figures grown by more than 20%, according to trade map. [1]

## II. FINDINGS

In the article, we have found the legal issues while starting an MNC the concern department of external affair of an

internal company should focus on international law, Employment law, Intellectual Property law, law of contracts, taxation law, Business acquisition and data protection of a host country should need to be followed to gain 100% success rate in their business at international level.

## III. RECOMMENDATIONS

### Field of Law of Contract

In day-to-day business life, contract is inevitable. There must be a contract between the parties in the business. The emergence of standardised international contracts was made possible by the globalisation of business and the global reach of corporate activities. Associated with these transnational contracts are slang and legalese. Standard paperwork for daily business is produced by the consistent usage of the same type of international contract. On the other hand, businesses have a critical need for internal standardisation, which in turn improves the usage of standard documents in regular working life.

### 1. Specialised Legal Service

Every MNC need to prepare and maintain the legal documents as per the concerned law. For that there should be a specialised legal team by appointing a lawyer, Company secretaries etc. Some of the required qualifications/experience to oversee the legal affairs of the company. The following are.

- Licensed law practitioner from the State bar association
- Corporate Lawyer with minimum 3years experience
- With excellent communication skills, both verbally and in writing
- Outstanding managerial and negotiation skills
- Highly analytical with strong attention to detail.
- This specialized legal team will oversee the following

legal proceedings:

- To represent the company in legal proceedings
- To design the company's policy and position on legal matters
- To protect the company from violations and legal risks
- To examine the legal issues of the new products and services
- To negotiate the dealing on behalf of the company
- To guide the management on regulatory and compliance issues to ensure that compliance by legal regulations.

## 2. *SEC10 of Indian Contract Act, 1872*

According to Section 10 of the Indian Contract Act of 1872, all agreements are contracts if they are established with the free assent of parties who are legally able to enter into contracts, for a legal consideration, and for a legal purpose, and are not now expressly declared to be void.

## 3. *Services of Legal Translation*

Every country in the globe has a different legal system and set of legal requirements. It is possible for certain nations' areas to have even more complicated legislative requirements.

Consequently, a contract in one country may be different from a contract in another. a provider of legal translation services who has specialists in international law to ensure that the laws of each nation are adhered to in the papers.

The demand for legal translation services will increase as international corporations develop further. Working with a language services provider with a focus on legal translations is essential if you want to ensure that legal documents are translated accurately.

## 4. *Global Progresses*

The trend of economic globalisation, or the rising interconnectedness of national economies globally as a result of an increase in the cross-border movement of commodities, services, technology, and capital, has a substantial impact on the international economy. International businesses are important to this process. Businesses in less industrialised countries have more opportunity to access more and larger global markets because to globalisation. As a result, emerging market companies have better access to money, technology, human resources, cheaper import costs, and larger export markets. [2]

## **Field of Intellectual Property**

### 1. *Patent and IP Services*

An intellectual property (IP) right for a technological invention is a patent. For a period of 20 years, you can stop others from making money off of your idea. If you have a current patent, you have the authority to decide who may manufacture, sell, or import your invention in those nations.

Your patent can be traded as well.

For instance, you may sell it or grant a licence for its use. Only original and novel innovations that were made at the time a patent application was made are protected by patents.

Enforcing your patent is your responsibility. The state doesn't keep an eye out for infringements of patents. Any infringement of your patent must be discovered by you, and you must protect your rights.

## 2. *Increased Awareness*

The invention was created by the inventor after taking the customer's adjustments into account. If the patent agent had claimed the invention and stated it in the patent specification, the resulting patent would have given the patent owner a monopoly on the market. The owner of a patent has the option of using his or her own marketing channels or granting a third party a licence in order to exploit his or her exclusivity.

## 3. *Creations of IPRs and Ensuring Strong*

IP protection can be sought for a variety of intellectual efforts including:

- Patents
- Industrial designs are features that can be applied to a product in any 2-D or 3-D configuration, shape, surface pattern, or colour combination.
- Trademarks are any name, symbol, or mark used in commerce to identify the maker or provider of a good or service and to facilitate trade in that product or service. It is possible to purchase, sell, and licence trademarks. Beyond the reputation of the commodity or service it represents, a trademark has no independent life.
- Literary, musical, dramatic, artistic, cinematic, audiovisual, and computer software works all fall under the umbrella of copyright, which is the legal right to express ideas in material form.
- Geographical indications are labels that designate a good as coming from the territory of a country, a region, or a locality therein, when a particular quality, reputation, or other aspect of the good is primarily related to its geographic origin. [3]

## 4. *Effective IPRs Law*

- (i) IPR Awareness: - IPRs' advantages for society as a whole in terms of the economy, society, and culture are becoming more widely known.
- (ii) Generation of IPRs
- (iii) Legal and Legislative Framework - IPR regulations that are strong and effective and that balance the interests of rights holders with broader public interest.
- (iv) Administration and Management - To strengthen and modernise service-focused IPR administration.
- (v) Commercialization of IPRs - Get value for IPRs through commercialization.

- (vi) Enforcement and Adjudication - To make the tools for enforcing and adjudicating IPR violations stronger.
- (vii) Human Capital Development - To enhance and broaden human resources, organisations, and capacities for IPR-related instruction, training, research, and skill development.

### 5. Foster a Culture of Creativity and Innovations

- Encouraging innovation in the educational environment. A reboot is required for the academic programmes.
- IPR-related concerns require an appropriate resolution procedure.
- Until and unless India solves loopholes in its IP laws and regulations, it will not be able to fully benefit from the transformative advantages of a strong IP system.
- The success of India's main programmes, make in India and Start up India, hinges on enhancing the innovation environment with greater IPR protections.
- In order to inspire the Indian industry to develop and to protect and enforce such innovations, more education concerning the establishment, protection, and enforcement of IPRs is required.

### Field on Taxation Law

#### *Fiscal Response to the Covid-19*

Whether or not these businesses had a physical presence, the revenues would still be distributed to market jurisdictions. There would be an end to all current digital levies and no room for future ones. Large multinational businesses will now fall under a new 15% category created by Pillar II.

#### *How to Save Taxes*

There are generally three main channels i.e., register an Intangible asset such as trademark/patents/ copyright in tax heaven, Debt shifting and Transfer pricing to shifting profit to lower tax countries. [4]

### Field on Employment Law

#### 1. Visa for Foreign Employee

- Failure to Demonstrate Eligibility Requirements
- Failure to Demonstrate Specialized Knowledge
- Salary Structure
- Incorrect or Missing Supporting Evidence
- Business Growth

#### 2. Working Conditions & Timing

Workplace variables that have an impact on productivity include working hours, stress levels, level of safety, and danger. The motivation of the personnel, and therefore their performance, is highly influenced by improving the work environment and conditions. Working time (hours of labour, rest times, and work schedules), compensation, as well as the physical conditions and mental demands that exist in the

workplace, are only a few of the subjects and issues that are covered under the heading of "working conditions".

### 3. International Workers

The ethical issues faced by MNC's in their treatment of foreign workers which could bring allegations of misconduct in their operations are wage rates and benefits, workplace environment and standards which contributes to social and economic problems, working conditions like job security, workplace safety, ventilation.

### Field of Business Acquisitions

#### *Opening the MNC*

Multinational corporation (MNC), also called transnational corporation, any corporation that is registered and operates in more than one country at a time. Generally, the corporation has its headquarters in one country and operates wholly or partially owned subsidiaries in other countries. Its subsidiaries report to the corporation's central headquarters.

In economic terms, a firm's advantages in establishing a multinational corporation include both vertical and horizontal economies of scale (i.e., reductions in cost that result from an expanded level of output and a consolidation of management) and an increased market share. Although cultural barriers can create unpredictable obstacles as companies establish offices and production plants around the world, a firm's technical expertise, experienced personnel, and proven strategies usually can be transferred from country to country. Critics of the multinational corporation usually view it as an economic and, often, political means of foreign domination. Developing countries, with a narrow range of exports (often of primary goods) as their economic base, are particularly vulnerable to economic exploitation. Monopolistic practices, human-rights abuses, and disruption of more-traditional means of economic growth are among the risks that face host countries.

#### *Good Working Atmosphere*

You manage your own success in MNCs because these companies offer rewarding jobs. They provide their staff with a cheerful environment and amazing benefits. Hardworking coworkers, supportive managers, and tasty food of MNCs encourage the employees to do their best.

A multinational company allows you to work with smart and talented people. Most of the seniors have transparent communication, great knowledge, and a lot of advice to offer to their juniors. You will be greatly rewarded with a huge bonus if you are a hard worker. You get the opportunity to work on exciting projects with a team of intelligent and professionally skilled people. You are constantly being pushed in to improve your skills. However, you will also find room for a lot of fun with your co-workers.

International companies give a lot of importance to the professional work environment. These companies provide a friendly atmosphere and work culture so that their employees

can work with more concentration and with less stress. These companies offer better career growth opportunities both in terms of money as well as skills. MNCs offer a great balance between work and life. The only thing needed to survive in an MNC is to do what you have been asked to do and the rest is likely to fall your way.

### **1. Friendly Environment**

A development that is eco-friendly makes efficient use of resources like energy, water, and other resources to lessen the overall effects of the built environment on both human health and the environment. boosting worker productivity and occupant health. Using less energy, driving less, walking more, eating more locally grown food, joining environmental organisations to fight air pollution, producing less waste, planting more trees, and many other things would be wonderful places to start.

### **Ethical Issues in Business**

The company leader needs to understand the basic dimensions involving conflicts among different responsibilities that come under human being, territory etc.

The company leader /executive's responsibilities can be divided into four spheres.

1. Personal ethical value,
2. Responsibility as economic agent,
3. Responsibilities as organizational leaders and
4. Responsibilities in cooperative capitalism. [5]

Together these four spheres provide a map of the moral territory of business management.

### **Fragmentation and Difference to Authority**

People are prompted by this to define their roles specifically and to keep their knowledge base small. The effects of people's activities are insulated by fragmentation. In the worst-case scenario, people lack a feeling of personal accountability or see themselves as inert parts of a machine. Deferring to those in authority above you in an organisation is a risk that is related to this tendency. Another hindrance to moral behaviour is performance pressure, deadlines, and emergencies. For the most part, managers just keep their ethical concerns to themselves. Though this tendency can be countered by a positive ethical climate, it is quite a challenge to create and maintain it.

### **Lenses and Levers**

The company's beliefs, attitudes, and conventions will weaken this firm and deter honesty, respect, fairness, and a sense of responsibility within its rank if managers don't strive hard to address these issues. Several fundamental elements affect the ethical climate of the firm. Everyone is a LENS AND A LEVER.

- As lenses each make clear the kind of ethical culture a corporation supports.
- As Levers, they can all assist managers in changing the atmosphere at a business and overcoming the

aforementioned organisational challenge.

### **Corporate Social Responsibility**

- The public interest should be taken into account when running a business. The various attitudes and business practises that CSR expresses are quite diverse.
- Through "social activism," a firm may direct a percentage of its earnings towards charitable causes, such as the construction of hospitals or schools or the allocation of human resources to such causes. Every decision and action made by a firm under the "Balancing Approach" would take into consideration not just the interests of the company's shareholders but also those of its employees, suppliers, consumers, and creditors. [5]

### **IV. SUMMARY**

- By 2020, there will be around 40.000 MNCs operating in India, with about a quarter million affiliates abroad. MNCs are well-liked since India has one of the economies that is expanding the fastest and a sizable market population. By allowing 100% foreign equity, the government has also recently loosened its restrictions on foreign direct investment (FDI).
- MNCs have a huge economic impact, provide employment for millions of people, and produce vast money. They are large corporations that have their roots in one nation (the "home") and establish operations in several different nations (the "host") at the same time. Over 50% of the capital assets are domestically sourced, as are the bulk of the Board of Directors.
- Host nations that are still developing typically have operations established up there. The cost of labour and materials is typically lower here than it is back home. Developing nations will likewise have more lenient laws and rules. MNCs bring about modernisation, support infrastructure expansion, boost the economy, create jobs, and close the technology deficit in exchange.

### **V. RESULT**

So, before entering startup the MNC in INDIA, each and every department covered in this field should need to go through for 100% success rate and need to sustain in this country which will helps in both economic and wealth of a country. So, I recommend these things for sustain the MNCs in India for longer periods for success and growth over the country.

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