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Case Law Summary Book

CS VIKAS VOHRA

CHAPTER 1 - TYPES OF DOCUMENTS

STANDARD BIDS AND TENDERS [Pg. 1.12]

TATA CELLULAR V. UNION OF INDIA

1. Tender conditions are generally not subject to judicial review, as they fall under contract negotiations.
2. Decisions to accept or reject tenders are made by experts through a multi-stage process.
3. Judicial intervention is possible if the conditions are arbitrary or unreasonable.
4. Conditions must pass the Wednesbury unreasonableness test to avoid being invalid.
5. Arbitrary conditions violating fairness may be invalidated under Article 14 of the Constitution.

CHAPTER 4 - DRAFTING OF AGREEMENTS, DEEDS & DOCUMENTS

LEAVE AND LICENCE [Pg. 4.13]

CHANDULAL VS. DELHI MUNICIPAL CORPORATION

1. **Lease vs. Licence:**

   A lease transfers an interest in the property, giving the lessee a right to enjoy it, while a licence only permits certain actions without granting any property rights.

2. **Termination of Licence:**

   After a licence ends, the licensor can take back possession and prevent trespass without needing a court order.

3. **Use of Force:**

   Reasonable force may be used to remove a trespasser, but excessive force could lead to criminal liability.

4. **Possession and Tenancy Presumption:**

   Exclusive possession usually suggests tenancy, but this can be disproven if there's no intention to create a lease.

5. **No Rights for Licensee Post-Termination:**

   A licensee has no claim over the property after the licence is revoked, and the licensor can deal with the property freely.

REPLY OF SHOW CAUSE NOTICE [Pg. 4.61]

MEENAKSHI V. STATE OF HARYANA

1. **Show-Cause Notice and Reply:**

   The petitioner was issued a notice under Section 340, and she was given an opportunity to respond, which she did.

2. **No Miscarriage of Justice:**

   The Court found that the procedure followed was lawful and did not lead to any miscarriage of justice.

3. **Rejection of Forgiveness Plea:**

   The filing of the complaint resulted from the non-acceptance of the petitioner's request for forgiveness.

4. **Court's Finding:**

   Justice Inderjit Singh held that the petitioner's case lacked merit.

5. **Petition Dismissed:**

   The Court ultimately dismissed the petition.

CHAPTER 5 - DRAFTING OF COMMERCIAL CONTRACTS

E-CONTRACTS [PG. 5.54]

SUMMARY OF E-CONTRACT FOR X LTD

1. **Customer Agreement and Acceptance:**
   - Customers must agree to X Ltd.'s terms before placing an order, usually by clicking an "I Accept" button or checkbox.
   - Only customers of legal age can enter into the contract.
2. **Customer Relationship with X Ltd.:**
   - By using the X website, customers are bound by a legal agreement with Y, which stores and ships some of the products.
   - X collaborates with manufacturers and warehouses for product stocking and delivery.
3. **Duties and Obligations of Customers:**
   - Customers must not modify, overload, or misuse the X website.
   - They are prohibited from using data extraction tools, framing techniques, or meta tags involving Y's trademarks.
   - Customers cannot engage in activities such as spamming, sending chain letters, or using software viruses.
4. **Licensing and Content Use:**
   - X grants a limited, non-exclusive, revocable licence to create a hyperlink to its homepage, provided it does not misrepresent Y.
   - Customers posting content (reviews, comments, photos) grant X a perpetual, royalty-free, and sub-licensable right to use and distribute the content worldwide.
   - Customers indemnify X against legal claims arising from the content they post.
5. **Risk of Loss and Pricing:**
   - X's liability ends once products are handed over to the courier service.
   - Pricing models may be based on retail price, manufacturer's suggested price, industry standards, or estimated value.
6. **Exclusion of Warranties:**
   - The contract specifies that services are provided "as is" and "as available," and the customer assumes all risks associated with using the website.

7. **Dispute Resolution and Termination:**

- *The contract specifies the governing law, jurisdiction, and conditions for arbitration.*
- *Customers can terminate the contract by closing their accounts with Y.*

CHAPTER 6 - DOCUMENTS UNDER COMPANIES ACT, 2013

DOCUMENTATION [Pg. 6.2]

SUMMARY OF SURAJ LAMP & INDUSTRIES PVT. LTD. V. STATE OF HARYANA

1. **Illegal Property Transfers:** The Supreme Court observed that sales through General Power of Attorney (GPA), sale agreements, or wills are often used to evade stamp duty and registration fees.
2. **Transactions Declared Invalid:** The Court held that such transfers are illegal and cannot be recognized under the law.
3. **Distinction between Transactions:** The Court differentiated fraudulent transactions from genuine ones entered in good faith.
4. **Legal Requirement for Sale:** As per Sections 53A and 54 of the Transfer of Property Act, a valid sale requires a stamped and registered deed of conveyance.
5. **No Legal Rights without Registration:** Without proper registration, no right, title, or interest in immovable property can be transferred.

TRANSFER OF UNDERTAKING: AMALGAMATION [PG. 6.4]

SUMMARY OF SPEED LINE AGENCIES V. T STANES & CO. LTD. (SUPREME COURT)

1. **Continuation of Legal Proceedings:**

   After amalgamation, all proceedings involving the transferor company continue with the transferee company.

2. **Devolution of Rights:**

   The transferee company inherits the transferor company's rights, including eviction decrees.

3. **Legal Standing:**

   The transferee company acts as if the transferor company still exists for legal purposes.

4. **Effect of Dissolution:**

   Even after dissolution, the transferor's rights are enforced through the transferee company.

5. **Supreme Court Ruling:**

   The Court upheld that the transferee company assumes all rights and obligations post amalgamation.

SIMPLE MORTGAGE [PG. 6.10]

SUMMARY OF RAM NARAYAN SINGH V. ADHINDRA NATH

1. **Personal Liability of Mortgagor:**

   The mortgagor remains personally liable to repay the loan with interest, even if immovable property is offered as security.

2. **Security Does Not Replace Liability:**

   Mentioning immovable property as security does not eliminate the mortgagor's obligation to repay the debt.

3. **Court's Observation:**

   The Court clarified that offering security does not affect the lender's right to enforce personal liability against the mortgagor.

4. **Reaffirmation of Legal Principle:**

   The decision emphasized that the creditor can seek repayment through both personal liability and security.

MORTGAGE BY CONDITIONAL SALE [PG. 6.11]

SUMMARY OF RAMA V. SAMIYAPPA (ILR 1881 4 MAD 179, 183-184)

1. **Mortgage by Conditional Sale:**
   - In this type of mortgage, if the mortgagor defaults on payment, the property becomes the absolute property of the mortgagee.
2. **No Personal Liability:**
   - The mortgagor is not personally liable to repay the debt.
3. **Loss of Redemption Rights:**
   - The mortgagor's right of redemption is extinguished only through a foreclosure decree.
4. **Effect of Default:**
   - Default leads to the closing of the transaction, transferring ownership to the mortgagee.
5. **Court's Observation:**
   - The High Court emphasized that foreclosure is required to finalize the transfer of rights.

USUFRUCTUARY MORTGAGE [PG. 6.12]

SUMMARY OF HARMINDER SINGH (D) THR. LRS. V. SURJIT KAUR (D) THR. LRS. & ORS. (SUPREME COURT, 27TH APRIL 2022)

1. ***Facts of the Case:***
   - *Gulab Singh mortgaged his land to Rajinder Singh on 02.05.1921.*
   - *Rajinder Singh died issueless, and his wife, Rajinder Kaur, inherited his rights.*
   - *Rajinder Kaur sold her mortgagee rights to the plaintiff on 18.06.1979.*
2. ***Suit for Ownership:***
   - *The plaintiff filed for ownership and permanent injunction, claiming the mortgage was extinguished after 30 years.*
3. ***High Court's Decision:***
   - *The High Court allowed the mortgagor's appeal, affirming the right to redeem the land.*
4. ***Supreme Court's Ruling:***
   - *The Supreme Court reaffirmed that a mortgagor retains the right to redeem the property anytime under the principle — "once a mortgage, always a mortgage."*
5. ***Appeal Dismissed:***
   - *Following the precedent in* ***Singh Ram (Dead) Through LRs v. Sheo Ram & Ors.****, the Supreme Court dismissed the appeal, upholding the mortgagor's right.*

ENGLISH MORTGAGE [PG. 6.16]

SUMMARY OF NARAYANA V. VENKATARAMANA (ILR 1902 25 MADRAS 220, 235) (FB)

1. **Essentials of English Mortgage:**
   - **Repayment Obligation:** Mortgagor binds himself to repay the mortgage money on a specific date.
   - **Absolute Transfer:** The property is transferred absolutely to the mortgagee.
   - **Reconveyance Provision:** The mortgagee reconveys the property upon repayment by the mortgagor.
2. **Statutory Power of Sale:**
   - The mortgagee's statutory power of sale is available only when the parties are not Hindus, Muslims, Buddhists, or other specified communities.
3. **Limited Applicability:**
   - Most Indian communities, though eligible for an English mortgage, cannot exercise the statutory power of sale, which is confined to Christians and people of English origin.
4. **Legal Restriction:**
   - The restriction is imposed through notifications by the State Government in the Official Gazette.
5. **Court's Observation:**
   - The Court highlighted the limited applicability of statutory powers in English mortgages due to community-based restrictions.

MORTGAGE BY DEPOSIT OF TITLE DEEDS [PG. 6.20]

Summary of K.J. Nathan v. S. Maruthi (AIR 1965 SC 430)

1. **Equitable Mortgage Validity:**
   - The Supreme Court held that an equitable mortgage was created under Section 58(f) of the Transfer of Property Act, despite the physical delivery of title deeds occurring outside the notified area.
2. **Formation of Intention:**
   - The intention to create the mortgage arose later, in a town within the notified area, making the mortgage valid.
3. **Requirement of Bona Fide Intention:**
   - There must be a genuine intention that possession of title deeds with the creditor is meant as security for the loan.
4. **Intention as a Question of Fact:**
   - The Court clarified that determining whether an intention to create security existed is a question of fact, not law.
5. **Legal Recognition of Mortgage:**
   - The Court emphasized that an equitable mortgage is valid even if the intent to create security develops after the delivery of title deeds.

ANOMALOUS MORTGAGE [Pg. 6.23]

MADHO RAO V GULAM MOHIUDDIN AIR 1919 PC 121

The Court held that while considering an anomalous mortgage, the intention of the parties must be gathered from the terms of the instrument as controlled by the provisions of the Act.

CHAPTER 8 - COMMERCIAL CONTRACT MANAGEMENT

ACTION IN CASE OF BREACH OF CONTRACT [Pg. 8.21]

SUMMARY OF *HADLEY V. BAXENDALE* (1854) 9 EX. 354

1. **Rule on Damages:**
   - Damages for breach of contract should cover losses that arise naturally from the breach or those that were foreseeable by both parties.
2. **Two Types of Damages:**
   - **Ordinary Damages:** Losses that naturally result from the breach.
   - **Special Damages:** Losses that both parties contemplated as a probable result at the time of contract formation.
3. **Foreseeability Principle:**
   - Damages are limited to what parties could reasonably anticipate as consequences of the breach.
4. **Landmark Case:**
   - The case established the foundational principle for awarding damages in contract law.
5. **Court's Ruling:**
   - Compensation is limited to foreseeable losses, preventing unfair or excessive claims.

ACTION IN CASE OF BREACH OF CONTRACT [Pg. 8.22]

SUMMARY OF MADRAS RAILWAY COMPANY V. GOVINDA (1898) 21 MAD. 172

1. **Facts of the Case:**
   - The plaintiff, a tailor, sent a sewing machine and clothes via the defendant railway company for use during a festival.
   - Due to the company's delay, the goods arrived after the festival.
2. **Claim for Lost Profits:**
   - The plaintiff sued to recover estimated profits lost due to the delay.
3. **Lack of Notice:**
   - The plaintiff did not inform the railway company that timely delivery was essential for a specific purpose.
4. **Court's Ruling:**
   - The Court held that the damages were too remote and unforeseeable by the defendant.
5. **Legal Principle:**
   - Compensation for breach is limited to losses foreseeable at the time of the contract.

DECREE FOR SPECIFIC PERFORMANCE [Pg. 8.24]

SUMMARY OF DUKE OF SOMERSET V. COOKSON (1735) 3 P WINS. 390

1. **Subject Matter:**
   - *The case dealt with the loss of unique items like art, antiques, and family heirlooms, which have sentimental or special value.*
2. **Intrinsic Value Consideration:**
   - *Such items may not have significant monetary value but hold immense emotional or historical significance.*
3. **Inadequacy of Damages:**
   - *Monetary compensation cannot adequately compensate for the loss of unique items.*
4. **Specific Delivery Ordered:**
   - *The Court ruled that, in such cases, specific delivery of the item should be ordered instead of awarding damages.*
5. **Legal Principle:**
   - *Specific performance is preferred when the subject matter is unique and irreplaceable.*

DECREE FOR SPECIFIC PERFORMANCE [Pg. 8.25]

SUMMARY OF VIJAYA MINERALS V. BIKASH (AIR 1996 CAL 67)

1. **Nature of Goods:**
   - Manganese and iron ore are not considered ordinary items of commerce.
2. **Specific Performance Permitted:**
   - The Court held that contracts for the sale of such rare commodities from a mine can be specifically enforced.
3. **Uniqueness of Subject Matter:**
   - Due to the unique nature of the goods, damages would not provide adequate relief.
4. **Legal Principle:**
   - Specific performance is appropriate where the goods involved are unique or not easily available in the market.
5. **Court's Decision:**
   - The Calcutta High Court allowed specific performance of the contract.

DECREE FOR SPECIFIC PERFORMANCE [Pg. 8.25]

SUMMARY OF *BANK OF INDIA V. CHINOY* (AIR 1949 PC 90)

1. **Availability of Shares:**
   - Specific performance is not granted if shares are freely available in the market.
2. **Exception for Private Company Shares:**
   - If shares of a private company or rare shares are not readily available, specific performance may be granted.
3. **Adequacy of Damages:**
   - When shares can be easily purchased, monetary compensation is considered sufficient.
4. **Unique or Rare Shares:**
   - Specific performance is appropriate for shares that are unique or difficult to obtain.
5. **Court's Ruling:**
   - The Privy Council distinguished between readily available shares and those that are scarce, allowing specific performance in the latter case.

CHAPTER 12 – APPLICATIONS, PETITIONS AND APPEALS UNDER COMPANIES ACT, 2013

OPPRESSION AND MISMANAGEMENT [Pg. 12.53]

V.S KRISHNAN VS. WESTFORT HI-TECH HOSPITAL LTD. [2008] 142 COMP. CAS. 235 (SC).

The apex court after considering various judgments passed over the years and after considering the facts of the case has held that following conditions are required to be satisfied for invoking section 397.

Oppression would be made out:

(a) Where the conduct is harsh, burdensome and wrong.

(b) Where the conduct is mala fide and is for a collateral purpose where although the ultimate objective may be in the interest of the company, the immediate purpose would result in an advantage for some shareholders vis-a-vis the others.

(c) The action is against probity and good conduct.

(d) The oppressive act complained of may be fully permissible under law but may yet be oppressive and, therefore, the test as to whether an action is oppressive or not is not based on whether it is legally permissible or not since even if legally permissible, if the action is otherwise against probity, good conduct or is burdensome, harsh or wrong or is mala fide or for a collateral purpose, it would amount to oppression under Sections 397 and 398.

(e) Once conduct is found to be oppressive under Sections 397 and 398, the discretionary power given to the Company Law Board under Section 402 to set right, remedy or put an end to such oppression is very wide.

(f) As to what are facts which would give rise to or constitute oppression is basically a question of fact and, therefore, whether an act is oppressive or not is fundamentally/basically a question of fact."

OPPRESSION AND MISMANAGEMENT [Pg. 12.53]

SUMMARY OF THE JUDGMENT OF BENGAL LUXMI COTTON MILLS LTD.

- A party alleging fraud or misconduct must provide specific particulars; vague allegations are insufficient.
- Courts will not conduct inquiries based on general or indefinite accusations.
- If a petitioner lacks details, they can seek discovery but must still present specific claims.
- A minority group of shareholders cannot rely on the absence of details as an excuse for making broad allegations.
- The court will not make orders in favor of a petitioner based on a rambling inquiry into vague charges.

OPPRESSION AND MISMANAGEMENT [Pg. 12.54]

SUMMARY OF THE CASE SHANTI PRASAD JAIN V. KALINGA TUBES LTD.

1. Facts of the Case

- *The appellant sought relief under Section 397 of the Companies Act, as the company was being run in a way that unfairly prejudiced the minority shareholders.*
- *The company was in a prosperous condition, but the appellant believed that the conduct of the majority shareholders and the management was oppressive.*

2. Winding Up and Just and Equitable Ground

- *The appellant argued that the company should be wound up on the ground that it was just and equitable, but the court noted that winding up was not the immediate solution.*
- *Instead, the High Court could intervene and provide redress under Section 397 to address the oppression of the minority shareholders.*

3. Definition of Oppression

- *Referring to* ***Harmer's case****, the court defined "oppressive" as burdensome, harsh, and wrongful.*
- *Oppression involves unfair treatment or conduct that violates the standards of fair dealing expected in a company, particularly in relation to minority shareholders' proprietary rights.*

4. Criteria for Applying Section 397

- *Section 397 does not apply merely because a winding-up order could be justified on a "just and equitable" ground.*
- *It must also be proven that the majority shareholders' conduct was* ***oppressive*** *to the minority, which requires continuous acts of unfair conduct rather than isolated incidents.*
- *Mere loss of mutual confidence or a deadlock between shareholders does not automatically trigger Section 397; there must be oppression tied to the majority's unfair treatment of the minority.*

5. Continuous Acts of Oppression

- *The court emphasized that oppression must be shown through a continuous series of actions by the majority shareholders, ongoing up to the date of the petition.*

- *Such oppression involves at least an element of unfair or dishonest conduct toward the minority shareholders, especially regarding their proprietary rights.*

6. Court's Approach

- *The court applied the principles of oppression under Section 397, requiring evidence of ongoing oppressive actions by the majority shareholders to the detriment of the minority group.*
- *A mere lack of confidence or a deadlock is insufficient unless it is directly linked to oppression involving unfair treatment or lack of probity in managing the company's affairs.*

POWER OF TRIBUMAL [Pg. 12.58]

SUMMARY OF THE CASE DALE & CARRINTON INVESTMENT (P.) LTD. V. P. K. PRATHAPAN

1. Issue at Hand

The case dealt with the Managing Director issuing additional share capital in his own favor.

2. Lack of Justification

No justification or proper procedure was provided for the issuance and allotment of shares. The allotment was neither *bona fide* nor in the company's interest.

3. Malafide Intent

The motive was *mala fide*, intended solely to gain control of the company.

4. Court's Decision

The court ruled that the allotment was unlawful and unjustified. And the entire allotment of shares to Ramanujam must be set aside.

CHAPTER 13 – ADJUDICATIONS & APPEALS UNDER SEBI LAWS

CENTURY ENKA LIMITED VS. SECURITIES AND EXCHANGE BOARD OF INDIA & ORS. BEFORE SAT (DATED 25.03.2022) [Pg. 13.1]

SUMMARY OF CENTURY ENKA LTD. VS. SEBI & ORS. (SAT, 25.03.2022)

Case Overview:

- Mr. B.K. Birla, a non-independent, non-executive director of Century Enka Limited, died on **July 3, 2019**, leaving a vacancy on the Board. This vacancy was filled by appointing an independent director on **February 5, 2020**.

Regulation and Fine:

- As per **Regulation 17(1)** of the LODR Regulations, the Board should have at least six directors, and non-compliance attracts a fine of ₹5,000 per day.
- Since the vacancy was not filled within three months, stock exchanges imposed a fine starting **October 3, 2019**, and SEBI rejected the company's application for a fine waiver.

SAT's Observations and Ruling:

- **No Timeline in Regulation 17(1):** Unlike **Regulation 25(6)** (for independent directors), which provides a specific time frame for filling vacancies, **Regulation 17(1)** does not specify any timeline to fill vacancies.
- **Illegal Imposition of Fine:** Since there is no prescribed time frame, the imposition of a fine was deemed illegal.
- **Lack of Authority:** Stock exchanges do not have the authority to impose fines unless backed by statutes or circulars issued by SEBI.
- **Conclusion:** The SAT quashed the orders of the stock exchanges and SEBI, ruling that no fine can be imposed without clear legal provisions.

IGNORANCE OF LAW IS NOT AN EXCUSE FOR ESCAPING FROM LIABILITY OF VIOLATION OF LAW [Pg. 13.3]

SUMMARY OF CASE: MEGA RESOURCES LIMITED VS. SEBI

1. **Case Overview:**
   - **Violation:** Mega Resources Limited failed to comply with disclosure requirements under Regulation 7(1) read with 7(2) and Regulation 11(1) read with 14(1) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.
   - **Acquisition Impact:** The company's promoters increased their shareholding from 50.46% to 60.46%, triggering an open offer requirement.
   - **Penalty Imposed:** SEBI imposed a penalty of ₹2 lakh under Section 15A(b) and ₹50 lakh under Section 15H(ii) of the SEBI Act.
2. **Appellant's Argument:**
   - The non-compliance was unintentional due to ignorance of the law.
   - The appellant contended that the penalty should be limited to the ₹5 lakh cap applicable in 2001, as the violation occurred before the amendment dated October 29, 2002, which raised the penalty to ₹25 crore.
3. **SEBI's Decision:**
   - **Rationale:** SEBI held that since the violation continued after the amendment, the higher penalty under the amended provisions was applicable.
   - **Legal Principle:** Ignorance of law is not an excuse, and the appellant cannot escape liability.
   - **Penalty Justified:** The penalty under the amended provisions was upheld due to the continued violation after the amendment date.

SUN INFOWAYS LIMITED [Pg. 13.11]

SUMMARY OF CASE: SUN INFOWAYS LIMITED

1. **Case Overview:**
   - **Appellant:** Mrs. Sadhana Nabera
   - SEBI found Nabera guilty of **insider trading** related to the merger of Zap with Sun Infoways and imposed a penalty of ₹5 lakh.
2. **Appellant's Role and Argument:**
   - Nabera, being an **auditor**, argued that she was not privy to sensitive information regarding the merger as it was a **policy decision** beyond her scope of work.
3. **SAT's Decision:**
   - **SAT** ruled in Nabera's favor, stating that:
     - As an auditor, she was not expected to have access to information about the merger.
     - Sensitive information about the merger would not have been shared with the auditor before it became public.
   - SAT allowed the appeal and set aside the penalty imposed by SEBI, holding that Nabera had **no access or concern** with the insider information.

KEDAR NATH AGARWAL V SECURITIES AND EXCHANGE BOARD OF INDIA [Pg. 13.11]

SUMMARY OF CASE: KEDAR NATH AGARWAL V. SEBI

1. **Case Overview:**
   - The stockbroker failed to implement a **Code of Internal Procedures and Conduct** to prevent insider trading.
2. **Enquiry Officer's Observation:**
   - No specific instance was identified where the broker or associated entities traded as **insiders** with access to price-sensitive information.
   - The Enquiry Officer did not consider this a serious violation.
3. **Tribunal's View:**
   - The tribunal disagreed, stating that the failure to prescribe the code violated **Regulation 12** of the SEBI (Prohibition of Insider Trading) Regulations, 1992, regardless of whether insider trading occurred.
   - As a registered intermediary under **Section 12 of the SEBI Act**, the broker was required to comply with this provision.

RAKESH AGRAWAL VS. SEBI [Pg. 13.12]

SUMMARY OF CASE: RAKESH AGRAWAL VS. SEBI

1. **Case Overview:**
   - In 1996, the Managing Director of ABS Industries Ltd. facilitated a deal with Bayer AG, a German company, to acquire 51% of ABS's shares.
   - Before the **Unpublished Price Sensitive Information (UPSI)** about the acquisition was made public, the Managing Director sold a large portion of his shares through his brother-in-law.

2. **Issue:**
   - Whether trading in securities while possessing Unpublished Price Sensitive Information (UPSI) is punishable even if done in the company's interest

3. **SEBI's Decision:**
   - SEBI found the Managing Director guilty of **insider trading** and directed him to deposit **Rs. 34 lakhs** into the **Investor Protection Funds** of the BSE and NSE.

4. **SAT's Verdict:**
   - On appeal, **SAT (Securities Appellate Tribunal)** ruled that although the Managing Director traded while in possession of UPSI, he was not guilty of insider trading.
   - **Reasoning:** His actions were intended to ensure Bayer AG acquired the company, which was in the best interest of ABS Industries, and he did not trade with the intent to make a profit.

5. **Mens Rea Consideration:**
   - SAT emphasized that while **mens rea (intention)** is not explicitly mentioned in SEBI's regulations, it is a necessary consideration in cases of insider trading.
   - SAT rejected SEBI's **"disclose or abstain"** principle, stating that to penalize an insider, it must be shown that they gained **unfair advantage** from the trade.

HINDUSTAN LEVER LIMITED VS. SEBI [Pg. 13.13]

SUMMARY OF CASE: HINDUSTAN LEVER LIMITED VS. SEBI

1. **Case Overview:**
   - **Hindustan Lever Ltd. (HLL)** purchased **8 lakh shares** of Brook Bond Lipton India Ltd. (BBLIL) from **Unit Trust of India (UTI)** two weeks before announcing the merger between HLL and BBLIL.
   - **SEBI** suspected **insider trading** and issued a **Show Cause Notice (SCN)** to HLL's Chairman, Executive Directors, Company Secretary, and the former Chairman.
   - HLL and BBLIL were both managed by Unilever, a London-based parent company. SEBI determined that HLL and its directors had prior knowledge of the merger and were insiders under SEBI regulations.

   Issue:
2. The primary issue was whether HLL was an insider and if the information regarding the merger constituted Unpublished Price Sensitive Information (UPSI) under Section 2(k) of the SEBI (Insider Trading) Regulations, 1992.
3. **SEBI's Findings:**
   - HLL and its directors were considered **insiders** as they had prior knowledge of the merger.
   - SEBI concluded that HLL possessed **Unpublished Price Sensitive Information (UPSI)** under **Section 2(k) of the SEBI (Prohibition of Insider Trading) Regulations, 1992**, which included information about **mergers/amalgamations** likely to impact the price of securities.
4. **SAT's Observations:**
   - **Securities Appellate Tribunal (SAT)** agreed with SEBI's conclusion that HLL had **UPSI** about the merger, which went beyond self-generated information.
   - SAT noted that since Unilever was the parent company of both HLL and BBLIL, and had **common management and directors**, HLL was privy to BBLIL's decision-making.
5. **Outcome of the Decision:**
   - SAT upheld SEBI's finding that the merger information was **price-sensitive** and led to an **amendment in the definition of "unpublished"** under Section 2(k), clarifying that **"unpublished"** means information not disclosed by the company or its agents and that is **specific in nature.**

PRAKASH GUPTA V. SECURITIES AND EXCHANGE BOARD OF INDIA, DATED JULY 23, 2021 [Pg. 13.14]

SUMMARY: PRAKASH GUPTA VS. SEBI

1. **Case Overview:**
   - **Prakash Gupta**, Director of Ideal Hotels & Industries Limited, was accused of **price rigging and insider trading** during the company's **IPO** in violation of SEBI Regulations.
   - **SEBI's Investigation:** Based on complaints received in 1996, SEBI identified six entities that had acquired 75% of the post-issue floating stock, influencing the price of the shares.
   - A criminal complaint was filed, and the Adjudicating Officer (AO) levied a fine of INR 20,000 on Mr. Gupta and other co-promoters, which was duly paid.
2. **Compounding Application:**
   - Mr. Gupta applied for **compounding of offences** under **Section 24A of the SEBI Act**, but the application was **rejected by the Trial Court** and later upheld by the **Delhi High Court** stating that SEBI's consent was required for compounding.
3. **Issue:**
   - Whether **SEBI's consent** is mandatory before **SAT or a Court** can compound an offence under **Section 24A** of the SEBI Act?
4. **Supreme Court's Observations:**
   - **Section 24A** does **not require SEBI's consent** for compounding.
   - **Section 24B** highlights that SEBI's recommendation is required only for granting immunity by the Central Government, which is not applicable under **Section 24A**.
   - The Court concluded that SEBI's consent is not mandatory for the Securities Appellate Tribunal (SAT) or the court to exercise the power to compound an offence.
5. **Decision and Guidelines:**
   - The **Supreme Court** ruled that **SEBI's opinion and the High Powered Advisory Committee (HPAC)** should be given due consideration, but SEBI's consent is not mandatory.
6. **Guidelines for Compounding:**
   - Follow the factors listed in the "**Guidelines for Consent Order**" dated April 20, 2007.
   - SAT or Courts should defer to SEBI's opinion unless it is **mala fide or manifestly arbitrary**.
   - Ensure that the **aggrieved party has been restituted** and agrees to end the dispute.

- *If the offence is of **public character**, it should not be compounded despite restitution.*

6. ***Significance of the Decision:***

- *The judgment **clarified SEBI's role** in compounding offences and provided detailed **guidelines** for courts to follow under **Section 24A**, ensuring the protection of public interest in securities markets.*

IN THE MATTER OF R. JHUNJHUNWALA AND ORS. [Pg. 13.32]

SUMMARY OF R. JHUNJHUNWALA & ORS. CASE

1. **Allegations of Insider Trading:**

- SEBI accused prominent investors of trading in **Aptech Computers** shares using **unpublished price sensitive information (UPSI)** between March 14, 2016, and September 7, 2016.
- In September 2016, Aptech's share price surged as the investor's relatives purchased shares worth ₹100 crore.
- The investor, with management control and a board position in Aptech, along with family members, allegedly traded shares before Aptech's announcement of entering the preschool education segment in September 2016.

2. **Investigation & Findings:**

- SEBI determined that UPSI existed between March 14 and September 7, 2016.
- Investors allegedly shared and traded based on this information

3. **Increased Shareholding:**

- Following the trades, the investor's family's promoter shareholding in Aptech increased to 48%.

4. **Consent Settlement with SEBI:**

- The investors opted for **SEBI's consent route**, allowing them to settle the case without admitting or denying guilt.
- Total charges paid amounted to ₹18.5 crore, with the primary investor paying ₹6 crore as disgorgement, his wife paying ₹3.2 crore, and Aptech board members contributing ₹6.2 crore and ₹1.7 crore, respectively.

CHAPTER 14 – APPEARANCES BEFORE OTHER REGULATORY AND QUASI JUDICIAL AUTHORITIES

ESSAR STEEL MATTER FOR CIRP [Pg. 14.14]

SUMMARY OF ESSAR STEEL CIRP CASE

1. **Insolvency Referral:**
   - Essar Steel, with a debt of ₹54,000 crore, was referred to the NCLT under the CIRP provisions of the IBC, 2016.
   - A resolution professional was appointed to manage the process.
2. **Bidding and Approval:**
   - Bids were received from Tata Steel and JSW Steel, with the CoC approving JSW Steel's bid worth ₹19,700 crore.
3. **Legal Challenges:**
   - The Ruia family (former promoters) and Standard Chartered Bank objected to the resolution plan, claiming undervaluation and discrimination.
   - The dispute led to prolonged litigation, eventually resolved by the Supreme Court.
4. **Resolution Outcome:**
   - The Supreme Court approved JSW Steel's plan, marking a significant milestone in IBC implementation.
5. **Key Takeaways:**
   - The case emphasized the need for a transparent, efficient, and legally sound CIRP process to balance the interests of all stakeholders.

CASE STUDY ON CORPORATE INSOLVENCY RESOLUTION PROCESS

CIRP OF JAYPEE INFRATECH LIMITED (JIL) [Pg. 14.15]

SUMMARY OF CIRP OF JAYPEE INFRATECH LIMITED

1. **Insolvency Declaration:**
   - Jaypee Infratech Limited (JIL) was declared insolvent by the NCLT in August 2017 after failing to repay its debts due to delays in project completion and disputes with landowners.
2. **Bidding and Delays:**
   - An IRP was appointed to manage the CIRP and invite bids, but no plan was initially approved, leading to multiple extensions.
3. **Supreme Court Intervention:**
   - In June 2019, the Supreme Court directed the CIRP process to be completed within 90 days, allowing only Suraksha Group and NBCC to submit plans.
   - Suraksha Group's bid was approved but challenged by homebuyers, leading to a revised plan that was approved in March 2021.
4. **Challenges and Impact:**
   - The process took over three and a half years instead of the expected 270 days, causing financial losses to creditors and homebuyers, impacting the real estate sector.
5. **Significance:**
   - The case highlights the need for a streamlined CIRP process to protect stakeholder interests and ensure timely resolution of financially distressed companies.

JET AIRWAYS [Pg. 14.17]

SUMMARY OF JET AIRWAYS CASE

1. **Financial Crisis and CIRP:**
   - Jet Airways, once a leading airline in India, suspended operations in April 2019 due to financial troubles and a debt of over ₹8,000 crore.
   - It was referred to the NCLT under the Corporate Insolvency Resolution Process (CIRP) of the IBC, 2016.
2. **Bidding and Resolution Plan:**
   - Bids were invited, with the winning bid from a consortium led by Kalrock Capital and Murari Lal Jalan.
   - Their plan included acquiring Jet Airways' assets and reviving its operations.
3. **Challenges and Legal Hurdles:**
   - The plan faced delays due to regulatory approvals from DGCA and legal challenges from creditors.
4. **Approval and Takeover:**
   - NCLT eventually approved the plan, allowing the consortium to take over and work on reviving the airline.
5. **Significance:**
   - The case highlights the complexities of CIRP in the aviation sector and the importance of a transparent resolution process to preserve stakeholder value.

CASE STUDY ON COMBINATIONS UNDER THE COMPETITION ACT, 2002
ACQUISITION OF FLIPKART BY WALMART [Pg. 14.18]

SUMMARY OF FLIPKART-WALMART COMBINATION CASE

1. **Acquisition Details:**
   - In May 2018, Walmart acquired a 77% stake in Flipkart for $16 billion, marking India's largest e-commerce deal and Walmart's largest acquisition.
2. **CCI Review:**
   - Since the deal met the threshold for a combination under the Competition Act, 2002, Walmart and Flipkart notified the Competition Commission of India (CCI).
3. **Examination Process:**
   - CCI analyzed market impact, invited stakeholder comments, and conducted hearings to assess competition and consumer welfare implications.
4. **CCI Approval with Conditions:**
   - CCI approved the deal with conditions, ensuring Flipkart remained independent and Walmart did not exert controlling influence.
   - Periodic compliance reports were mandated.
5. **Key Takeaways:**
   - The case highlights CCI's role in ensuring fair competition and legal compliance under the Competition Act, 2002.

RELIANCE INDUSTRIES LIMITED (RIL) AND FUTURE GROUP [Pg. 14.19]

SUMMARY OF RELIANCE INDUSTRIES LIMITED (RIL) AND FUTURE GROUP CASE

1. **Deal Overview:**
   - In August 2020, RIL announced a $3.4 billion acquisition of Future Group's retail, wholesale, and logistics businesses through Reliance Retail Ventures Ltd. (RRVL).
2. **CCI Investigation & Approval:**
   - The Competition Commission of India (CCI) reviewed the deal under the Competition Act, 2002, and approved it with conditions to prevent anti-competitive practices.
3. **Key Conditions Imposed:**
   - No exclusive supply agreement between RIL and Future Group.
   - Future Group must maintain fair competition and operate independently.
4. **Amazon's Objection:**
   - Amazon, holding a 49% stake in Future Coupons, contested the deal at the Singapore International Arbitration Centre (SIAC), claiming breach of contract.
   - SIAC ruled in favor of Amazon and issued an interim stay on the deal.
5. **Ongoing Litigation:**
   - The matter remains under litigation in various Indian courts.
6. **Significance:**
   - The case highlights the complexities in evaluating mergers in the evolving e-commerce and retail sectors and stresses the importance of honoring contractual obligations.

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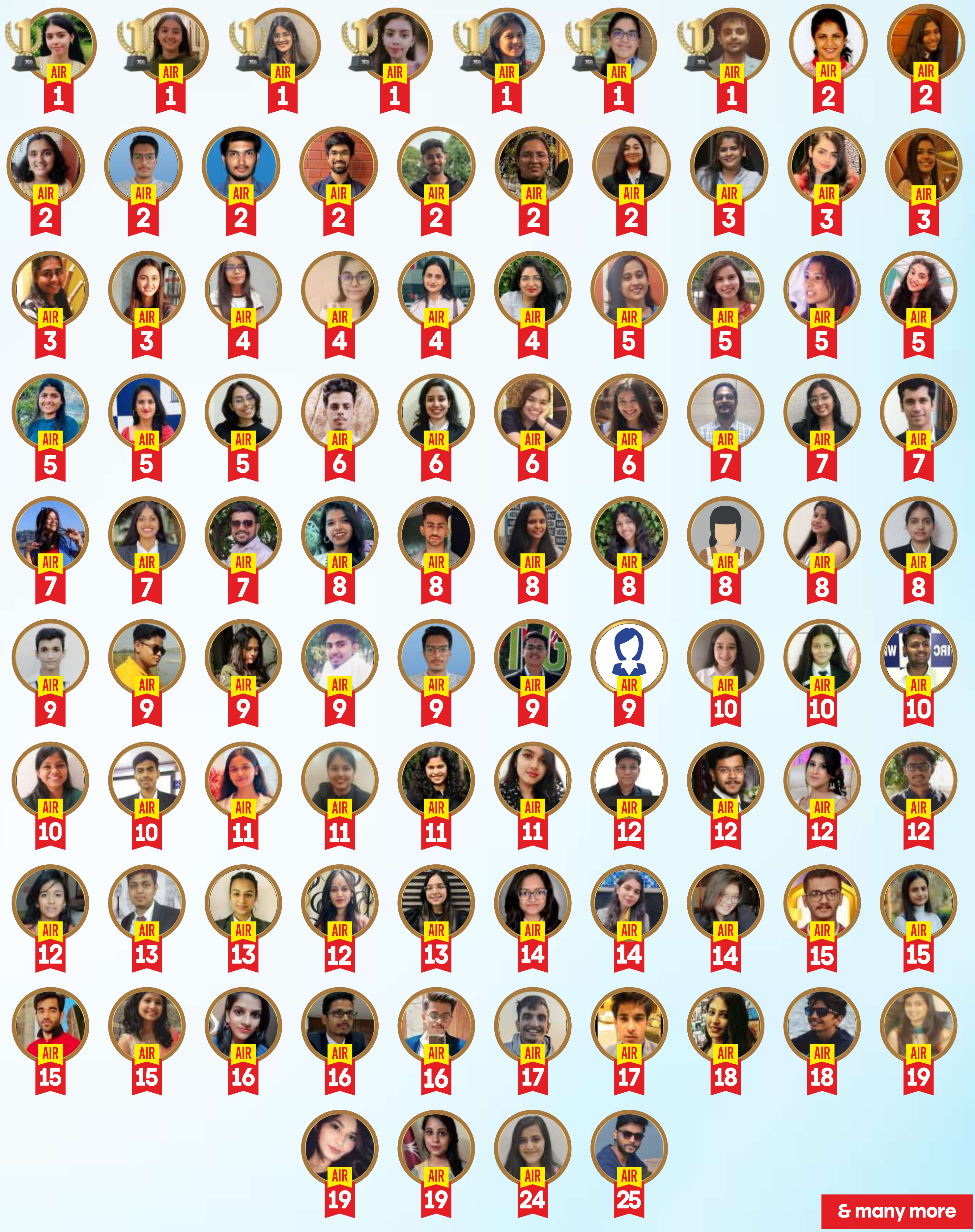

& many more

CS Vikas Vohra
Founder - YES Academy

Vikas is a Commerce and Law Graduate and a Company Secretary by profession. He has to his credit, few other Certifications and specialisations in Corporate and Securities Laws. On the teaching side, he has taught more than 50,000 students.

He is also a speaker at various Management Institutes and ICSI on various Corporate matters and Entrepreneurship. In his previous assignments, he worked as an Associate Vice President with LexValueAdd Consulting Private Limited, an Investment Banking firm based out of Mumbai.

He has significant hands on experience in Mergers and Acquisitions, Public Offerings and consequent listing of the Shares and GDR's on the Bourses, fund raising and Deal Structuring. Before that he also worked with Kirloskar Brothers Investments Limited & Bajaj Auto Limited wherein, he was deeply involved in various M&A activities.

Vikas is presently the Founder of YES Academy for CS, Pune He is also a Co-Founder of PapaZapata (Mexican food chain) & GujjuKhakhra (Indian Breads). He enjoys writing poetry and doing meditation in his free time.

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Office 30A, 1st Floor, Gate No. 1, Kumar Prestige Point,
Behind BSNL Office, Bajirao Road, Shukrawar Peth, Pune - 411 002

8888 235 235 | 8888 545 545
yesacademypune@gmail.com

yesacademy.co.in
/yesacademyforcs
/yesacademyforcs
/yesacademyforcs

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