LL.B. V Term

Paper - LB – 5036 - Business Regulations

Business is essentially an economic activity. However, business needs to be conducted within certain set norms and follow specific criteria in order to ensure that other aspects of the society and the stakeholders are not compromised. The legal framework is the set of laws and rules that govern and regulate the functioning of business. They aim to set standards and evolve systems which will ensure that the business activities are compliant with the best practices and more essentially are not detrimental to the health of the economy. Business regulations are also essential to promote, support and enhance the business environment of a nation. The ease of doing business, the flexibility in growth of a company, and the conduciveness of an economy in starting and operation of firms are certain important aspects that promote the economic growth. Business regulations are instrumental in controlling and managing these aspects for the best outcomes.

Freedom to carry on trade and business is a Fundamental Right guaranteed under the Indian Constitution. Additionally, there are a number of statutes that manage the legal and regulatory framework in Indian business. Moreover, with the liberalization of our economy, it has now become all the more essential to synthesize our domestic laws to meet the international standards and pave a path for both domestic and foreign players to operate smoothly in the economy. In the context of the rapid evolution of business and its forms, a robust regulatory framework is crucial to promote the effectiveness and efficiency of business. Further, with the evolution in business, the legislature and the judiciary is also pacing in evolving a strong, rigorous and well-built, legal framework. Hence, it is essential that the students of law are exposed to these areas to corporate and business laws.

This course aims to introduce the students to the recent developments that are taking place in the business scenario and the legal framework that exist to ensure that business can operate smoothly to fetch the best possible outcome

Prescribed Laws

1. Constitution of India, 1950
2. Essential Commodities Act, 1955
3. The Securities & Exchange Board of India Act, 1992
4. The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002
5. The Takeover Code - SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011
6. Prevention of Money Laundering Act, 2002
7. Telecom Regulatory Authority Act, 1997
8. Real Estate (Regulation and Development) Act, 2016
9. The Insurance Regulatory and Development Authority Act, 1999

Prescribed Books:

1. Durga Das Basu, Constitution of India, Prentice Hall of India
2. Rajiv Jain, Guide to New Industrial Policy, with Procedure; India Investment Publications
3. Richard Parlour, International Guide to Money Laundering Law and Practice
4.N R Madhava Menon and Narasimhaswamy G. Mysore, Government Control over Private Enterprise
5. P.L. Malik, Industrial Law; Eastern Book Company
6. S. Suryanarayanan& V. Varadarajan: SEBI – Law, Practice & Procedure; Commercial Law Publishers (India) Pvt. Ltd.
7. V.L. Iyer, SEBI Practice Manual; Taxman Allied Service (Pvt) Ltd.
8. M.L. Tannan, revised by C.R. Datta& S.K. Kataria: Banking Law and Practice, Wadhwa& Company
9. Manual on The Telecom Regulatory Authority of India Act, Commercial Law House

Topic 1: Right to Trade and Business under the Indian Constitution

(A) Concept of Trade and Business [Art. 19(1)(g) and Art. 301]

(B) Reasonable Restrictions in Public Interest [Art. 19(6)]

(C) Power to Carry on Trade by State and Government Contracts [Art 298-299]

Topic 2: The Securities & Exchange Board of India Act, 1992

(i) Need for protection of rights of investors
(ii) Definitions
- Board
- Collective Investment Scheme
- Securities as in 2(h) Securities Contracts (Regulation) Act, 1956

(iii) Establishment of Securities and Exchange Board of India (Ss. 3-9)
(iv) Powers and Functions of the Board (Ss. 11- 11D)
(v) SEBI (Prohibition Of Insider Trading) (Amendment) Regulations, 2018
- Definitions- connected person, generally available information, immediate relative, insider, unpublished price sensitive information
- Communication or procurement of unpublished price sensitive information.
- Trading when in possession of unpublished price sensitive information

Topic 3: The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI)

Topic 4: The Takeover Code - SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011)

- Definitions- acquirer , acquisition, control, immediate relative, listing agreement, offer period, persons acting in concert, target company
- Substantial acquisition of shares or voting rights,
- Indirect acquisition of shares or control,
- Voluntary Offer

Topic 5: The Prevention of Money Laundering Act (PMLA), 2002

Need for combating Money-Laundering
Magnitude of Money-Laundering, its steps and various methods

The Prevention of Money-Laundering Act, 2002:

(i) Definition of 'Money Laundering', Ss. 3 & 2(1)(p)
(ii) Punishment for Money Laundering (Sec. 4)
(iii) Enforcement: Attachment (Sec. 5)
(iv) Survey, Search, & Seizure (Ss. 16, 17 & 18)
(v) Power to arrest (Sec. 19)
(vi) Adjudication under the Act: Adjudication by Adjudicating Authorities (Sec. 8)
(vii) Special courts (Ss. 43 to 47)
(viii) Vesting of Property in Central Government (Sec. 9)
(ix) Preventive Mechanisms under the Act: Obligation of banking companies, financial institutions and Intermediaries (Ss. 12 & 12A)
(x) Reciprocal Arrangements with other countries (Overview of Chapter IX i.e. Ss. 55 to 61)
(xi) Amendment in the Prevention of Money Laundering Act, 2002 brought by The Finance Act, 2019

Topic 6: The Essential Commodities Act, 1955

(i) Sec. 2 - Definitions
(ii) Sec. 2A - Essential commodities declaration, etc
(iii) Sec. 3 - Powers to control production, supply, distribution, etc., of essential commodities
(iv) The Schedule – Essential Commodities
(v) The importance of the Act in the wake of the Covid19 pandemic
- *The Essential Commodities (Amendment) Ordinance, 2020*

**Prag Ice and Oil Mills and Anr. Etc.* v. *Union of India, AIR 1978 SC 1296*

Sectoral Regulators

Topic 7: Telecom Regulatory Authority of India Act, 1997

- Constitution, Jurisdiction, Role and Functions of TRAI
- Telecom Disputes Settlement and Appellate Tribunal (TDSAT)

15. *Cellular Operators Association of India and Others* v. *Telecom Regulatory Authority of India and Others,* Supreme Court Judgment dated: 11 May, 2016 116

** B.S.N.L vs Telecom Regulatory Auth. of India Civil Appeal NO. 5253 OF 2010 decided on 6, Dec 2013.*

Topic 8: Real Estate (Regulation and Development) Act, 2016

- Registration of Real Estate Project & Registration of Real Estate Agents (Sec. 3)
- Real Estate Regulatory Authority (RERA) (Sec. 20)
- Offences, Penalties and Adjudication (Sec. 59)

**Neelkamal Realtors Suburban Pvt. Ltd.* v. *Union of India*, Bombay High Court Judgment dated: 6 December, 2017

**Imperia Structures Ltd v. Anil Patni, SC Civil Appeal NO.3591 OF 2020*

Topic 9: Insurance Regulatory and Development Authority Act, 1999

- Establishment and Incorporation of the Authority (Sec. 3)
- Duties, Powers and Functions of the Authority (Sec. 14)

IMPORTANT NOTE

1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.

2. The students are required to study the legislations as amended up to date and consult the latest editions of books.