

Legislations governing start up's: An Indian overview

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Abstract

A start-up is an entrepreneurial venture which is typically a newly emerged, fast-growing business that aims to meet a marketplace need by developing or offering an innovative product, process or service. A startup is usually a company such as a small business, a partnership or an organization designed to rapidly develop a scalable business mode. For the success of these start-ups few legal parameters have been framed by Indian Judicial system. The following article describes as to how one can easily go for start-up. The article states that if the entrepreneur has sufficient knowledge about laws associated with business than the business get its smooth and long term survival strategy.

Keywords: entrepreneurs, taxation, law

Introduction

It seems very easier to start a business in few months but nothing can go beyond the reach of legal banners. One has to work in the cage of legal framework created by Indian judicial system. It is very often found that entrepreneurs have very less and basic knowledge about the laws associated with running a newly created business. There are many legal aspects about which an entrepreneurs has to keep himself updated with like choosing the type of business means private, single or joint proprietorship and the brand. Long term goals and planning has to be done while keeping updated about the laws associated with the type of business you are running.

Apart from calculating profits proper allocation of taxes is most important aspect to be looked upon. An entrepreneur has to keep knowledge with regard to SEBI, business finance methods, labour laws, information technology laws, contract laws, intellectual property laws and should also know how to settle disputes. Startup means an entity, incorporated or registered in India:

- Not prior to five years,
- With annual turnover not exceeding INR 25 crore in any preceding financial year, and
- Working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property

Provided that such entity is not formed by splitting up, or reconstruction, of a business already in existence. Provided also that an entity shall cease to be a Startup if its turnover for the previous financial years has exceeded INR 25 crore or it has completed 5 years from the date of incorporation/registration. Provided further that a Startup shall be eligible for tax benefits only after it has obtained certification from the Inter-Ministerial Board, setup for such purpose. The Startup India Action Plan is about new startups in India which can avail of regulatory and tax benefits for three years, capital gains tax exemption, and access to funds from the government's U.S. \$1.5 billion (Rs 10,000 crores) corpus.

Other benefits include reduction in patent registration fees by 80 percent, simpler entry and exit norms, protection of

intellectual property rights (IPR), and facilities to promote entrepreneurship among women and SC/ST communities.

The Legal Requirements to establish a Start-up is that it must be established under either of the following legal frameworks:

- Registered under the Companies Act, 2013;
- Registered under section 59 of the Partnership Act, 1932, as a partnership firm; or
- Registered under the Limited Liability Partnership Act, 2002, as a limited liability partnership.

Start-up Laws followed by an entrepreneur

1. Incorporation- Seeking ideas, collecting various information and data regarding what kind of organization to set up. It can be a private limited company, public limited company, partnership firm, or a limited liability partnership. However, an entrepreneur needs to be careful that finer points in the existing legal framework have been taken care of.
2. Accounting and laws pertaining to taxes- Running any kind of business means that one has to pay taxes to the Central/State government or local bodies. Therefore, it becomes a necessity for every new entrepreneur to be aware about accounting details and tax laws.
3. Labour laws – for any start-up there is need for manpower and for establishment of good and cordial relationship between employer and employee it is necessary to have knowledge about labour laws.
4. Securities and Exchange Board of India (SEBI)- Securities laws which are regulated by the Securities and Exchange Board of India (SEBI) help in easing the process of listing. Entrepreneur has to keep a track of various updated regulations issued by SEBI will help in managing the various stages of nurturing a new business, including fund-raising.
5. Corporate governance - A running-knowledge about corporate governance will help a budding entrepreneur to effectively manage and formulate further expansion plans.
6. Information technology laws- knowledge about e-contracts, cloud computing, digital signatures, securing confidential

data from hackers, cloud computing, protecting your privacy are also important for start-ups.

7. Contract laws and dispute resolution - A business survives on contracts. Laws pertaining to contracts, arbitration, mediation, conciliation should be studied for the progress of a successful business.
8. Intellectual property laws - Legally protecting intellectual property is of supreme importance to any business. Timely IP audits, filing the accurate trademark/copyright/ patent claims will not only protect your business but increase profits too.

No economy can grow without domestic private investment. Recovery is possible if private corporate investment can be restarted, to add to growth created by growth in public investment and private consumption. Start-up India will fill this vacuum as Start-ups and entrepreneurs are a way to create alternate private investment models. But these start-ups will have to be in the legal framework designed by the Indian judicial system as well as international laws.

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