
Enabling Ease of compliances under Various Laws

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Abstract

Liberalization as a word and Liberalization as a process is very well Known to us, how far its plays a vital role in way from under developed economy to developing economy towards the Developed Economy is clearly witnessed since last many years back. Liberalization means doing away with control and DOES a WAY with Regulation only. During this last two years we see that Start up Initiative of Government of India, how effectively work out among highest strength- the Youth of India. As per the 3rd pillar for this policy "Industry Academia Partnership and Incubation" the Union Ministry of MHRD has announced plans for the development of 'Research Parks' to be created in partnership with higher education providers across India. So highest strength involve in the project were students from NITs, IITs, IISERs and National Institutes of Pharmaceutical Education and Research (NIPERs) and to make ease for them the Government has taken several steps by enabling relaxation and easy registration under various laws. This paper focus more on comparative study from student perspective with concerned respective law, justifying the Role of Higher Education Institute in Growth of Startup Eco System and Innovative Business Incubation through Legal Support as Facilitators.

Key Words:- Liberalization, Economy, Facilitators, Laws, Higher Education

India today is the home to 39k startups. The Indian Startup ecosystem is producing unicorns at double the speed than before with multibillion dollar funding from global investors and celebrating high profile exits. Where about it equal important portion to understand about basic laws, rules and regulation that are applicable for the smooth functioning of the business. From formalizing a founders' agreement to safeguarding intellectual property to enforcing business contracts, it is essential that entrepreneur are aware and up to date with the latest laws governing their business and market. The Government of India decided to boost the startup ecosystem in the country and help India became a nation of job creators rather than job seekers. The Government through this startup initiative aims to empower startups to grow thorough innovation and design and to accelerate spreading of the startup movement. Startups are the future of India. The rapid advancement in many sectors has led to a spurt in the numbers and quality of startups in India. It can be incorporated in various forms such as company including a one person company, Limited-liability partnership or a partnership firm. Each type of entity is governed by separate laws, though there are certain common laws which are to be complied with.

Other than laws relating to incorporation, tax laws, labor legislations, environmental laws, securities laws, contract laws, intellectual property laws and various other kinds of laws are required to be adhered to. Startups should also be aware of dispute settlement mechanism which includes litigation, arbitration, mediation, conciliation and negotiation.

The Government of India has come up with a comprehensive policy on encouraging startups India through various policy and regulations. An incorporated private limited company or a partnership firm registered under the Partnership Act 1932 or a Limited Liability partnership under the Limited Liability Partnership Act, 2008 in India can be considered as a 'Startup' till 7 years from the date of its incorporation/registration for getting the benefits under the Government of India Schemes.

Startups in the biotechnology sector have been provided an extended period of 3 more years from its incorporation. But there are certain further stipulation like turnover for any of the financial years since incorporation has not exceeded Rs. 25crores (as per the Companies Act) and further the entity is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

- Certain startups which are incorporated between the 1st day of April, 2016 and the 1st day of April 2019 (now extended by 2 more years to 1st day of April 2021) are also eligible for **TAX BENEFITS**. A certificate of an eligible business from the Inter-Ministerial Board of Certification of Department of Industrial Policy and Promotion is a prerequisite for availing the benefits. The definition of "eligible business" under the Income Tax Act has been now expanded to mean a business carried out by an eligible startup engaged in innovation, development or improvement of products or processes or services or scalable business model with a high potential of employment generation. Tax exemptions allowed to Eligible startups under Startup India Program are
- 3 year tax holiday in a block of seven years
 - Exemption from tax on Long-term capital gains.
 - Tax exemption on investments above the fair market value
 - Tax exemption to individual/HUF on investment of long-term capital gain in equity shares of Eligible Startups u/s 54GB
 - Set off of carry forward losses and capital gains allowed in case of a change in Shareholding pattern.
- To ease the **LABOUR LAW** compliances the Ministry of Labour & Employment has allowed the startups to self-certify compliance under various Labour Laws such as

The Building and other Constructions Workers' (Regulation of Employment & Condition of Service) Act, 1996

- The Inter-State Migrant Workmen (Regulation of Employment & Condition of Service) Act, 1979
- The Payment of Gratuity Act, 1972.
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

- The Employees' State Insurance Act, 1948
In case of Labour laws no inspections will be conducted for 3 years. Startups may be inspected on receipt of a credible and verifiable complaint of a violation, filed in writing and approved by a least one level senior inspecting officer.

➤ In case of **ENVIRONMENT LAWS**, Startups which fall under the 'white category' (as defined by the Central Pollution Control Board (CPCB) would be able to self-certify compliance, and only random checks would be carried out in such cases. Laws from which exemption is provided under this scheme are

- The Water(Prevention & Control of Pollution) Act, 1974
- The Water(Prevention & Control of Pollution) Cess (Amendment) Act,2003
- The Air (Prevention & Control of Pollution) Act, 1981.
- Environment (Protection) Act, 1986.

Pollution Index (PI) Score is given by SPCB, depending on the utilization of the resources, the air emissions, water effluents, and hazardous waste generated. A Concept of 'white industries' has been introduced for classifying "non-polluting" companies

➤ Under the startups **INTELLECTUAL PROPERTY PROTECTION**, reduce patent fees (rebate up to 80 % of regular fees) for the patent applicants will certainly boost innovation. New amended Trademark Rules provide 50 percent rebate in trademarks filings fee to startups. Provision of Patent and Trademark facilitators is also a welcome step. For fast tracking the insolvency resolution process, the Ministry of Corporate Affairs has notified sections 55 to 58 of the Insolvency and Bankruptcy Code,2016, and the fast track process includes a Startup (other than the partnership firm) as per the government policy.

Strategies for Protection and Exploitation of IPR for Startups are

- Make Intellectual Property Protection a priority
- Register Intellectual Property Rights
- Due Diligence of IP Rights
- Implement clear and effective policies and strategies for protection of IP Rights
- Agreements related to Intellectual property.

Reverie's Legal counsel Swathi Sukumar, who practices IP Rights & Protection Law in Delhi, told YourStory that while the country's IP laws are quite robust, awareness about the same has not been sufficient Startups need to look at IP, not as a matter of compliance alone, but as a matter of creation of an asset she says.

➤ To further encourage investments in startups by Foreign Venture Capital Investors (FVCI), the regulatory provisions have been accordingly amended such as Schedule 6 of Foreign Exchange Management (Transfer or Issue of Security by a person resident outside India) Regulations, 2000 and Foreign Exchange Management (Transfer or Issue of Security by a person resident outside India)(Third Amendment) Regulations, 2016. A FVCI may contribute up to 100% of the capital of an Indian company engaged in any activity mentioned in Schedule 6 of Notification No. FEMA 20/2000,

including Startups irrespective of the sector in which it is engaged, under the automatic route. Startups can issue equity or equity-linked instruments or debt instruments to FVCI against receipt of foreign remittance, as per the FEMA Regulations.

Having lots of Ease of Compliances under various Laws we have lists of successful startups in India such as Wow! Momo, Ola Cabs, Zomoto, Paytm Myra in the year 2018. OYO, Urbanclap sets another example of E-Commerce and online services as a startups in India.

To conclude focusing on important aspect of startups Industry-Academia Partnership. Building partnership with Industry and Educational Institutes to setup incubators and support for vocational training institutes under Student Start-up & Innovation Policy (SSIP), IPR strategies for academia has been given special focus. Various kinds of incentives including financial grant have been put in place to support such endeavor. To effectively leverage the same, the IP guidelines have been developed so that the creators benefit optimally. The Central theme is to create win-win situation for creators and end beneficiary. INTECLECTUAL PROPERTY GUIDELINES for Academia in Gujarat in its scope presents that it is not limited approach, but extending to IP creation, protection, maintenance and commercialization of IP, providing training, dispute resolution, IP administration, increasing IP literacy and awareness through setting up of State and Institutional IPFC(Intellectual Property Facilitation Center).

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