



M&A: Restructuring & Stamp Duty

M&A | *In the News*

ETPrime

Oyo parent Prism Hotels receives Sebi nod for IPO

Tata Motors gets NCLT nod for demerger of passenger and commercial vehicle businesses from October 1

Razorpay completes reverse flip from US to India with MCA approval

Aditya Birla Capital Receives Regional Director Approval for Subsidiary Amalgamation Scheme

1 min read • Updated on 02 Apr 2026, 01:10 AM

Vedanta gets NCLT nod for demerger plan

Vedanta's plan to demerge its oil-to-metals conglomerate into five separate listed entities has received approval from the National Company Law Tribunal (NCLT). This development comes despite earlier concerns from the government regarding the recovery of dues.

ETPrime

NCLT approves SaaS startup MoEngage's reverse flip plan

CCI clears Adani Power's GVK buy, other deals

M&A | *Key Triggers*

Internal Reorganizations

- Streamlining of operations
- Simplification of complex legacy structure
- Availing incentives/ benefits
- Achieve Investor readiness

Inorganic Acquisitions

- Growth Strategy
- Diversification of Business

Exit Planning

- Tax efficient structuring to plan divestments
- Mode of repatriation of earnings

Succession Planning

- Use of Trusts
- Navigating inheritance tax

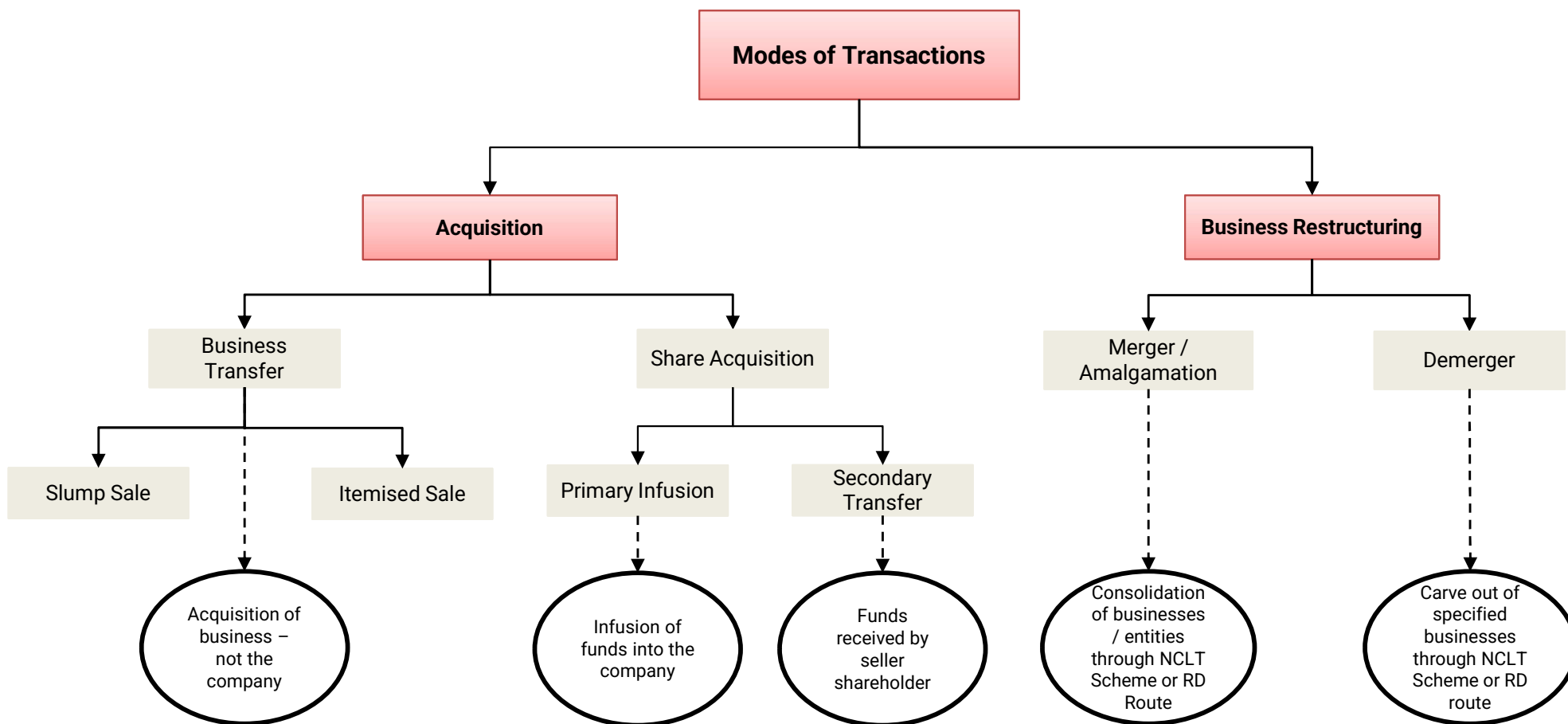
Addressing Stressed Situations

- Restructuring under IBC
- One Time Settlement Scheme

Initial Public Offer

- Access to capital and future value appreciation
- Exit Opportunities for Founders and Investors

M&A | *Major Modes of Transactions*



M&A | *Major Modes - Key Points for Consideration*

Merger / Demerger

Commercial rationale vis-à-vis tax benefits

Continuity of tax losses

Stamp duty cost

In case of listed entities → Majority of minority approval

Testing the “**undertaking**” concept in case of demerger

Slump Sale

Negative net worth of business undertaking

Transfer of shares of foreign subsidiaries under automatic route whether allowed?

Valuation of non-cash transaction in case of slump exchange

Tax losses of transferor are not transferred

Treatment of non-compete fees

Itemised Sale

Probable tax outflow in hands of the seller

Tax losses of transferor are not transferred

MAT implications on profit as per the books of accounts

Tax rates for depreciable assets (Short term capital gain)

Share Transfer

Deemed income under Section 56(2)(x) if transfer made below fair value (Net Worth).

Step-up in the cost of the underlying business is NOT possible in share purchase.

Precedents

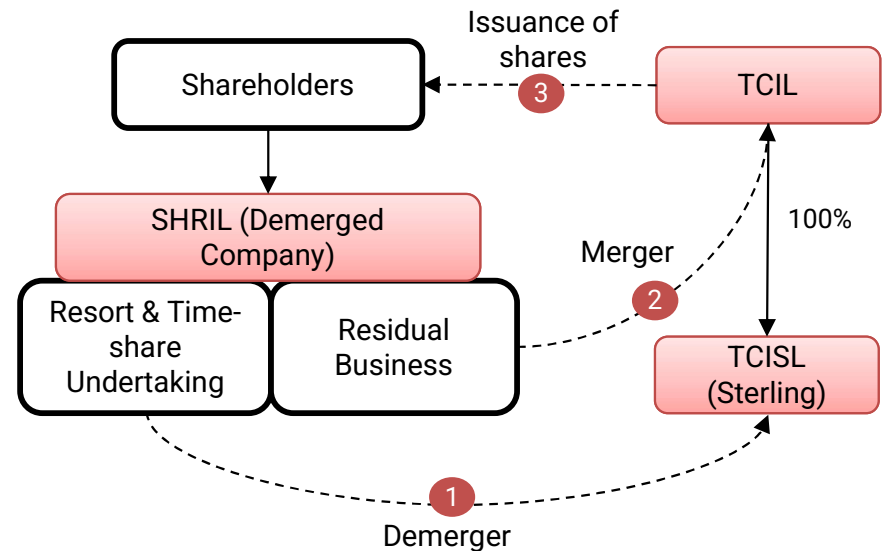
Demerger | *Can Holding Company Issue Shares in Demerger?*

Background

- Sterling Holiday Resorts India Ltd. ("SHRIL") undertook a court-approved composite scheme of arrangement.
- The scheme comprised of:
 - i. Demerger of the Resorts and Time-share undertaking into Thomas Cook Insurance Services Ltd. ("TCISL") (renamed Sterling Holiday Resorts Ltd.)
 - ii. Merger of the remaining business into Thomas Cook (India) Ltd. ("TCIL").
- Pursuant to the scheme:
 - i. The undertaking was transferred to TCISL
 - ii. Shares were issued by TCIL to the shareholders of SHRIL

In the proceedings for AY 2015–16, the TCISL claimed carry forward and set-off of accumulated losses and unabsorbed depreciation amounting to ~ INR 240 crore under section 72A of the IT Act 1961, on the basis that the transaction qualified as a tax-neutral demerger.

Transaction Structure



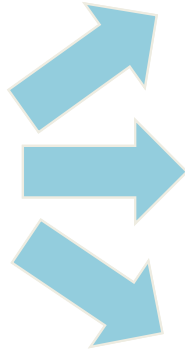
Core Issue and AO's Arguments:

- ✓ **Non-compliance with section 2(19AA)(iv) of the IT Act 1961** → As shares were not issued by the resulting company (TCISL) or its WOS.
- ✓ Incorrect identification of resulting company, since TCIL (which issued shares) did not receive the undertaking;
- ✓ **Accordingly, the AO concluded that the transaction did not qualify as a demerger and denied benefits of carry-forward and set-off of loss as per section 72A of the ITA to the assessee.**

Demerger | *Mumbai ITAT Ruling*



Mumbai ITAT
Ruling dated
25th June 2026



No substitution between holding company and subsidiary →

- ✓ The phrase “including a wholly owned subsidiary” in section 2(41A) does not allow the holding company and its subsidiary to be treated interchangeably for the purpose of issuing shares.

Strict compliance for tax neutrality →

- ✓ Section 72A is a conditional benefit requiring strict, **literal compliance with statutory conditions**, with no scope for liberal or purposive interpretation in a taxing statute.

Identity of the resulting company is fundamental →

- ✓ The entity receiving the undertaking and issuing shares cannot be different and has to be the same entity



The present ITAT ruling in tax assessment proceedings demonstrates that approval of a scheme under company law does not automatically ensure tax neutrality.

Capital Reduction | *Bharti Telecom Limited – Supreme Court (1/2)*

Background

Supreme Court ruling in Pannalal Bhansali v. Bharti Telecom Limited →

- Bharti Telecom Limited ('**BTL**') decided to reduce its share capital under Section 66 of the Companies Act, 2013 by cancelling equity shares held by identified minority shareholders and paying them cash.
- The company determined an exit price of INR 163.25 per equity share for such cancellation.
- The valuation was undertaken by an independent valuer and supported by a fairness opinion, with a Discount for Lack of Marketability ('**DLOM**') applied due to the illiquid nature of BTL's unlisted shares.
- The proposal was approved by over 99.90% of shareholders.
- The NCLT increased the payout to INR 196.80 per share (by disallowing deduction of DDT) and approved the reduction.
- The NCLAT upheld the order, following which the matter reached the Supreme Court.

Objections raised by minority shareholders

Exit price was alleged to be significantly low

Application of DLOM was challenged as inappropriate

Valuation and fairness reports were not circulated with the notice.

The notice was alleged to be misleading ("tricky notice")

The valuer was alleged to have connections with the company's internal auditor

Key issues before Supreme Court

- ✓ Whether a valuation report is mandatory under Section 66?
- ✓ Whether non-disclosure of valuation report vitiates the process?
- ✓ Whether the valuation and process were unfair or prejudicial to minority shareholders?
- ✓ Whether the application of DLOM was legally permissible?

Capital Reduction | *Bharti Telecom Limited – Supreme Court (2/2)*

Supreme Court's Ruling

Valuation Report

- Section 66 does not require a valuation report from a registered valuer.
- Non-disclosure of the valuation report does not invalidate the capital reduction, provided the exit price is disclosed and the report is available for inspection.

No "Tricky Notice"

- The notice was not misleading, as it adequately disclosed the proposed transaction and the consideration payable.
- A notice is defective only where material facts are deliberately concealed or shareholders are misled.

DLOM upheld

- The Court accepted the application of discount for lack of marketability, noting that unlisted and illiquid shares may command a lower price, and such methodology cannot be considered inherently unreasonable.

No bias

- Mere association between the valuer and the company's internal auditor does not establish bias.
- Bias must be real, demonstrable, and supported by evidence.

The **Supreme Court upheld the capital reduction** under Section 66, finding no procedural irregularity or unfair prejudice, and dismissed the appeals while affirming the revised payout of INR 196.80 per share.

GAAR | *GAAR Action on Hinduja Group Demerger (1/2)*

Hinduja Global–NxtDigital Merger Faces Major Setback As Tax Panel Calls Deal 'A Tax Dodge' | Profit Exclusive

According to the order dated Oct. 30, 2025, HGSL had sold its healthcare division for Rs 8,000 crore, generating capital gains of Rs 3,059 crore.

Transaction Summary

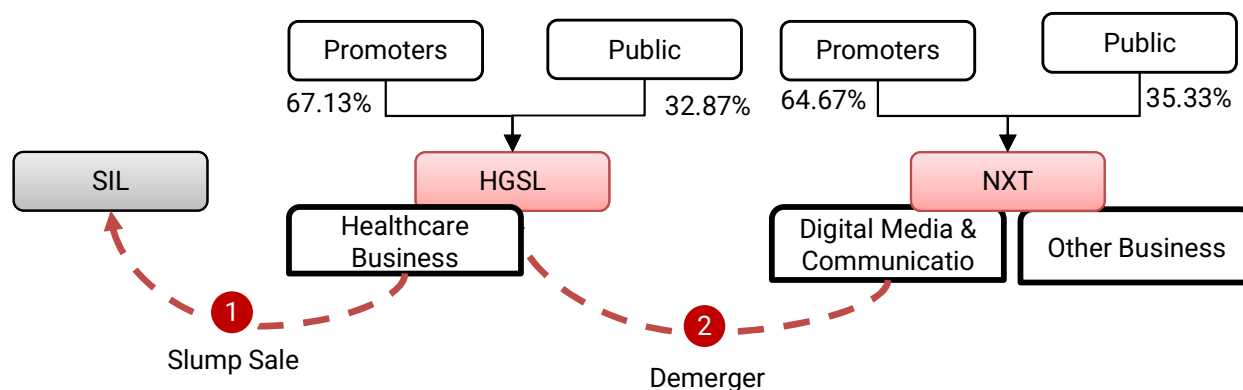
Step 1: Sale of Healthcare Business by HGSL (January 2022)

In January 2022, HGSL divested its healthcare services vertical through a slump sale to Sagility India Limited for approx. INR 8,000 crores. This resulted in taxable capital gains of approx. INR 3,000 crores in the hands of HGSL in the financial year 2021-2022.

Step 2: NDL–HGSL Demerger (February 2022)

Within a month of the healthcare divestment, NXT's DMC undertaking was demerged into HGSL with effect from February 01, 2022, pursuant to a scheme sanctioned by the National Company Law Tribunal, Mumbai on November 11, 2022. The demerged undertaking's accumulated business losses and unabsorbed depreciation of approx. INR 1,648 crores were transferred to HGS in terms of Section 116(6) of the IT Act, 2025 (corresponding to Section 72A(4) of the IT Act,1961).

Transaction Structure



Following the NXT–HGSL demerger, HGSL set-off approx. INR 1,200 crores of accumulated losses and unabsorbed depreciation pertaining to NXT's demerged undertaking against HGSL's income for the FYs 2021-2022 and 2022-2023, including capital gains from the divestment of its healthcare business.

GAAR | *GAAR Action on Hinduja Group Demerger (2/2)*

Receipt of direction from Secretariat, Approving Panel under General Anti-Avoidance Rules (GAAR)

Demerger of Media and Communication Business Undertaking of NXT into HGSL is an "impermissible avoidance arrangement" stating a tax reduction of **INR 281.59 crores**

Writ Filed in Bombay High Court by HGSL

Bombay HC stays the GAAR Order – A Key Ruling in the Pipeline?

Oral Observations by HC

Sec. 116 of IT Act, 2025 (corresponding to Sec. 72A of IT Act, 1961) will become redundant if one were to accept Revenue's submissions. Why have a provision then in the Income tax Act which facilitates a demerger?

Will Tax Department allow **loss in hands of demerged co.** if they are disregarding the demerger on account of GAAR? Income tax Department **cannot blow 'hot and cold'**

By **choosing to not reply to the demerger scheme before NCLT**, Tax Department cannot now feign ignorance that it wasn't aware of the consequences of the demerger

Acquisition | *Sun Pharma's all Cash Acquisition of Organon*

- Sun Pharmaceutical Industries Ltd. announced the 100% acquisition of **Organon & Co.'s**, (a NYSE-listed global pharmaceutical company) issued and outstanding shares for all cash consideration valued at USD 11.75 billion.
- The transaction will be effected by a merger of Organon with a subsidiary of Sun Pharma, with Organon surviving the merger (**Reverse Subsidiary Merger**)
- The transaction is expected to close in early 2027, subject to customary conditions, regulatory approval and Organon stockholder approval.
- Sun Pharma plans to fund the acquisition through a combination of available cash resources and committed financing from banks.



The transaction is aimed at strengthening **Sun Pharma's global portfolio** by expanding its presence in Women's Health, Biosimilars, Established Brands, and General Medicines.

The combined entity is expected to generate approximately **USD 12.4 billion in annual revenue**, positioning Sun Pharma among the top 25 pharmaceutical companies globally.

The deal is regarded as a landmark cross-border acquisition, being the largest overseas acquisition by an Indian pharmaceutical company and one of the largest outbound M&A transactions undertaken by an Indian listed company.

Fast Track Merger | *Section 233 of the Companies Act, 2013*

Applicability

Amalgamation of:

- ✓ Holding (listed or unlisted) and a subsidiary company (listed or unlisted) – regardless of being wholly-owned (*in all cases, transferor company shall be unlisted*)
- ✓ Two or more small companies (*as defined under Companies Act, 2013*)
- ✓ Two or more start-up companies
- ✓ Foreign parent company with its wholly owned subsidiary incorporated in India
- ✓ **Merger between any one or more unlisted company with one or more unlisted company (subject to additional conditions)**

Conditions

- ✓ Shareholder Approval → ≥ 90% in value of equity share capital (*NOT present and voting*)
- ✓ Creditors Approval → ≥ 90% in value
- ✓ Scheme approved by Regional Director (*no NCLT involvement*)
- ✓ *Additional Conditions for merger of any two or more unlisted companies:*
 - every company involved in the merger has, in aggregate, outstanding loans, debentures, or deposits not exceeding INR 200 Crore; and
 - has no default in repayment of such loans, debentures or deposits.

Why RD Route?

- ✓ Lower cost and compliance burden
- ✓ Faster implementation (4-6 months)
- ✓ Ideal for group simplification

- ✓ Can a WOS of a List Co. amalgamate with the Hold Co. (List Co.) → **Yes (subject to SEBI)**
- ✓ Can a List Co. amalgamate with WOS of a List Co. → **Not Permitted**

Fast Track Merger | *Aditya Birla*

Background:

- Regional director sanctioned the scheme of amalgamation of Aditya Birla Stressed Asset AMC Private Limited with Aditya Birla Financial Shared Services Limited under section 233 of the Companies Act, 2013.
- These are wholly owned subsidiaries of Aditya Birla Capital Limited

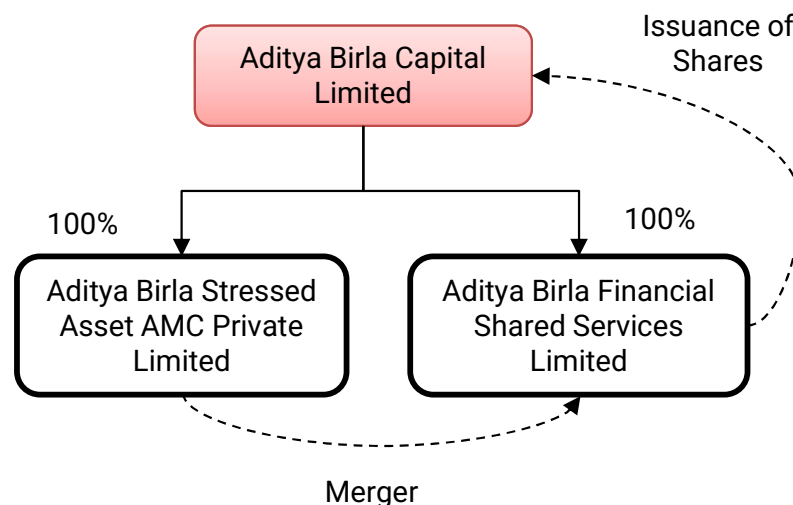
Objectives / Rationale:

- Rationalisation and simplification of organizational structure by reducing number of subsidiaries of Aditya Birla Capital Limited.
- Reduction in multiplicity of legal and regulatory compliances and administrative expenses..

Consideration:

- Equity shareholders of Aditya Birla Stressed Asset AMC Private limited shall be allotted 97 equity shares of the Aditya Birla Financial Shared Services Limited each, for 1000 shares held.

Proposed Structuring



Appointed Date → 1st April 2025

RD Order → 31st March 2026

Reverse Flipping | *Transactions in the News and New Regulatory Framework*

Razorpay completes reverse flip from US to India with MCA approval

Flipkart Joins The Reverse Flip Parade

22 Apr'25 | By Team Inc42

Startups 'reverse flip': Pine Labs, Zepto, Meesho in queue for India return

Mishra, ETtech - Last Updated: Mar 21, 2024, 09:06:00 AM IST

FOLLOW US SHARE FONT SIZE SAVE PR

Reverse Flipping: Now, Livspace Sets Sight On India Return As It Targets IPO In 2025

16 Jan'24 | By Gargi Sarkar

Fast Track Reverse Flip

A foreign holding company incorporated outside India can now be merged with its wholly owned Indian subsidiary under Section 233 of the Companies Act, 2013 after complying with RBI requirements

Reverse Flipping – Recent Transactions		
Name of Company	Jurisdiction of Foreign Co.	Mechanics
Razorpay	USA	Inbound Merger – Fast Track
Dream 11	USA	Inbound Merger – Fast Track
Groww	USA	Inbound Merger – NCLT Approved
Pine Labs	Singapore	Inbound Merger – NCLT Approved
Zepto	Singapore	Inbound Merger – NCLT Approved
Flipkart	Singapore	Inbound Merger – NCLT Approved
PhonePe	Singapore	Share Sale

Merger of Two LLPs | *Tax Neutrality?*

Mumbai Bench of the National Company Law Tribunal (NCLT) sanctioned the Scheme of Merger involving Pulit Trading LLP and Nyzel Trading LLP (Transferor LLPs) with Raojee Landmarks LLP (Transferee LLP) – **May 2026**

✓ Appointed date → 1st April 2025

Key Issues for Consideration

Reinforces that LLP mergers under Sections 60–62 of the LLP Act are viable restructuring tools

Tax Neutrality under Income Tax Act 2025 – No specific provisions for exemption (*especially in the hands of Partners*)

Stamp Duty Friction → Applicability of concessional stamp duty rates under respective stamp acts to LLP Mergers?



Stamp Duty

Stamp Duty – *In the News*

 Hindustan Times

Uttar Pradesh to bring corporate mergers, demergers into stamp duty net | Hindustan Times

Uttar Pradesh is set to bring a merger-demerger policy by amending the Stamp Act to tax corporate restructuring transactions and the...

22 Nov 2025

 The Times of India

Cabinet OKs lower capped stamp duty for corporate restructuring

Panaji: The state cabinet on Thursday approved an amendment to the Indian Stamp Act, 1899, to reduce stamp duty payable when the high court...

13 Mar 2026

 SCC Online

Stamp Duty on Parent-Subsidiary Arrangements: Implications in Delhi and Haryana

A detailed analysis of stamp duty on parent-subsubsidiary arrangements in Delhi and Haryana, including the 1937 Notification and Ambuja Cement...

24 Feb 2026



The Times of India

<https://timesofindia.indiatimes.com> > ... > nagpur News

House clears stamp Bill, disputes to go directly to state govt

14 Dec 2025 — The amendment introduces a new mechanism allowing individuals to appeal directly to the state govt, instead of approaching the high court ...

Indian Stamp Act – *Legislature and Schedules*

Article 246 read with Seventh Schedule of the Constitution of India allocates powers between Centre and State legislatures

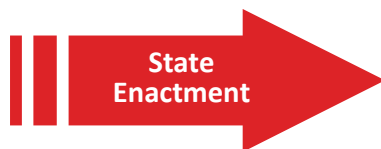
List	Entry Number	Entry
Union (List I)	Entry 91	Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures , proxies and receipts
State (List II)	Entry 63	Rates of stamp duty in respect of documents other than those specified in the provisions of Union List with regard to rates of stamp duty
Concurrent (List III)	Entry 44	Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty



The Indian Stamp Act 1899 ('ISA')

Central Enactment applicable to the whole of the India except where States have enacted their own Stamp Acts. **Schedule I** of ISA specifies stamp duties on various instruments covered under Union List or State List.

States have powers to adopt the ISA with amendments to suit the transactions peculiar in each State



Separate Schedule I-A added to the ISA by State amendments - Andhra Pradesh, Bihar, Delhi, Haryana, Himachal Pradesh, Madhya Pradesh, Orissa, Punjab, Telangana, West Bengal, etc.

Changes made in the Articles of Schedule I itself - Assam, North-Eastern States

Separate Acts enacted – Gujarat, Karnataka, Kerala, Maharashtra, Rajasthan

Recent Development: A Draft Indian Stamp Bill, 2023 has been issued to modernize India's stamp duty framework. However, as of 2026, the **Indian Stamp Act, 1899** remains the governing legislation. Details in Next Slide

Indian Stamp Bill, 2023:– *Key Provisions at a Glance*

Modernizing India's stamp duty framework for the digital economy and post-Article 370 legal landscape.

Digital Recognition

- E-stamps included under "impressed stamp"
- Digital signatures recognized under IT Act
- Electronic records qualify as "instruments"

Expanded Legal Scope

- "Lease" covers agreements, mining licenses, leave and licence
- "Market value" updated for property, mining leases, depository transfers
- Ad valorem provisions extended to gifts and leases

Enhanced Penalties

- Maximum penalty raised from ₹5,000 to ₹25,000
- Continuing penalty of ₹1,000 per day for ongoing offences
- Nominal duty increased from ₹1 to ₹100

Territorial Update

- "India" definition revised to include Jammu and Kashmir
- Aligns with post-Article 370 constitutional position

Restructuring transactions - *stamp duty applicability*

Transfer / issuance of securities

Stamp duty on issue and transfer of securities governed by the uniform regime



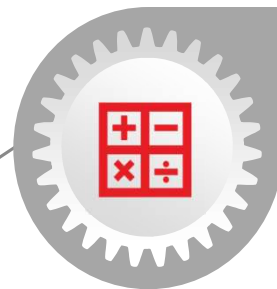
Slump sale / Itemized sale

Stamp duty payment on Business Transfer agreement / Asset transfer agreement



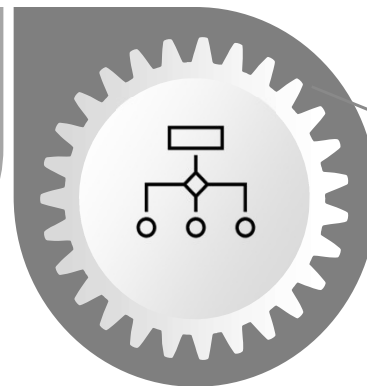
Other transactions

Conversion of Firm /LLP into Company, capital contribution, settlement in Trust, Will, liquidation, etc.



Scheme of Arrangement

Stamp duty payment on NCLT sanctioned schemes , mutation of property, remission of duty paid in one state, etc



Transfer / Issue of Securities (1/2) – *Uniform stamp duty regime*

Current Rates of Duty (Schedule I)

Particulars	Stamp Duty
Issue of securities other than debentures	0.005%
Issue of Debentures	0.005%
Transfer of securities other than debentures on delivery basis	0.015%
Transfer of securities other than debentures on non-delivery basis	0.003%
Transfer or reissue of debentures	0.0001%
<u>Derivatives:</u>	
Futures (equity and commodity)	0.002%
Options (equity and commodity)	0.003%
Currency and interest rate derivatives	0.0001%
Other derivatives	0.002%
Government Securities	0%
Repo on corporate bonds	0.00001%

Collection & Transfer of Duty by Stock Exchange/ Depository

- Central Government assumed power to levy stamp duty on issue of securities.
- Central Government has **notified Indian Stamp (Collection of stamp duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019** ('Stamp Rules') to provide the manner in which stamp duty shall be levied and collected and then transferred to the concerned state governments.
- As per the Stamp Rules , the term 'domicile state' is used for the purpose of transferring the stamp duty to the concerned state which shall mean:
 - state of the buyer appearing as 'Permanent address' in India in the records of the Collecting Agent and if the same is not available, then the 'Correspondence address' in India.
 - In the absence of both the addresses in India, the concerned State eligible for the Stamp Duty shall be the State where the registered office of the Intermediary is located (i.e. Broker, Clearing Member, Depository, Custodian, etc. through which trade is executed)

Stamp duty on buy-back / capital reduction of shares / Transfer of shares of a private limited company ?

Transfer / Issue of Securities (2/2)

Nature of Transaction	Duty Payable By	Duty Collected By	Duty Payable On	Time of Payment
Sale of any security through stock exchanges	Buyer	Stock exchange or authorised clearing corporation	Market Value (Price at which it is so traded)	Settlement of transactions
Transfer of security through a depository (Listed/Unlisted)	Transferor	Depository	Consideration specified in the instrument (Even if partly paid)	Before executing transfer
Transfer of security otherwise than through a stock exchange/ depository	Transferor	-	Consideration specified in the instrument	Before executing transfer
Issue of security in Demat form causing creation/change in depository records (Except on creation or destruction of securities on account of corporate actions such as stock split, stock consolidation, mergers and acquisitions, or such similar actions, etc., if it does not involve a change in beneficial ownership)	Issuer	Depository	Consideration or Issue Price	At the time of issue or change in the records of depository (before executing any transaction in the depository system)
Issue of security otherwise than through a stock exchange/ depository	Issuer	-	Consideration specified in the instrument	At the time of issue of securities (at the place where its registered office is located)
Offer for sale, private placement, tender offer or open offer through Stock Exchange	Offeror	Stock Exchange	Offer price	Once offer is completed
Offer for sale, private placement, tender offer or open offer through Depository	Offeror	Depository	Offer price	Once offer is completed

Slump sale / Itemized sale

Slump Sale means the transfer of one or more undertakings, by any means, as a going concern for a lump sum consideration, without values being assigned to the individual assets and liabilities.

Slump Sale of an undertaking typically constitute of the following assets

Movable Assets	Immovable Assets	Intangible Assets	Other Assets
Furniture Motor Vehicle Inventory Plant & Machinery – movable in nature	Land Building Plant & Machinery affixed to earth	Brands Trademarks Intellectual Property, technical know-how	Bank / Cash Debtors Receivable Etc
Physical Delivery & Novation	Separate Conveyance Deed	Separate Conveyance Deed	Cash/ Bank shall get vest automatically Debtors / Receivable – novation contracts

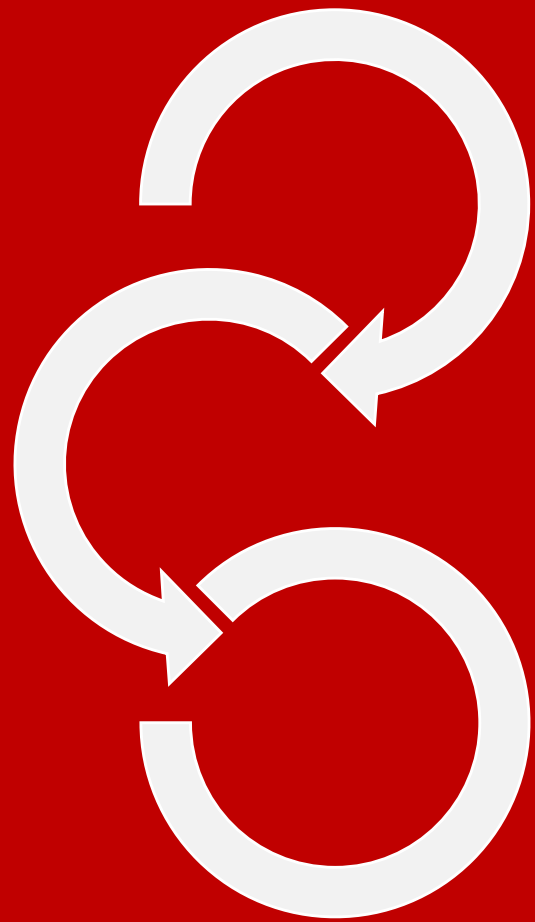
Whether the entire slump sale agreement is subject to stamp duty as movable property ?

Scenario 1 - Slump sale agreement is not subject to stamp duty as movable asset. Slump sale agreement should be an agreement to sale and separate actions must be specified with respect to transfer of each asset category.

In the case of Swadeshi Cotton Mills Company Ltd. (Allahabad HC)[(1975) 45 STC 224], where business was transferred along with Goodwill through an agreement and there was no conveyance deed for Goodwill, the HC held that the agreement is a mere contract for sale and hence should not be treated as conveyance. However, in many state laws agreement to sell deemed to be a conveyance.

Scenario 2 - slump sale agreement treated as moveable property.

In the case of Anil Purushottam Kakad vs. TRO (1993)95BOMLR817 it was held that transfer of business on going concern is treated as transfer of moveable assets.



M&A – Schemes

Scheme (1/6) - *Conveyance*

Meaning of Conveyance [Section 2(10)]

"conveyance" includes a conveyance on sale and **every instrument by which property, whether movable or immovable, is transferred** inter vivos and which is not otherwise specifically provided for by Schedule I

Stamp Duty on Conveyance as per Schedule I of ISA

23. Conveyance not being a TRANSFER charged or exempted under No. 62:

For every Rs. 500 or part thereof in excess of Rs. 1,000 - Five rupees.

Exemptions

- (a) Assignment of copyright by entry made under the Indian Copyright Act, 1847 (20 of 1847), section 5
- (b) For the purpose of this article, the portion of duty paid in respect of a document falling under article No. 23A shall be excluded while computing the duty payable in respect of a corresponding document relating to the completion of the transaction in any union territory under this article

Whether High Court/NCLT Order be treated as 'Instrument'?

- 'Conveyance' under ISA does not explicitly cover "High Court/NCLT order"
- Several States have amended the definition of Conveyance to include an Order passed by the High Court/NCLT under the Companies Act and **have introduced specific entry to charge duty on the Court Order**. Examples include: Maharashtra, Gujrat, Karnataka, Tamil Nadu etc.

Judicial Precedents

Amalgamation scheme sanctioned by the Court would be an "instrument" within the meaning of Section 2(i).

Supreme Court

Hindustan Lever (HL) v. State of Maharashtra

Bombay High Court

Li Taka Pharmaceuticals Ltd. vs. State of Maharashtra.

High Court of Delhi

Delhi Towers Ltd. v. G.N.C.T. of Delhi

Scheme would not qualify as an instrument as the transfer is purely through operation of law.

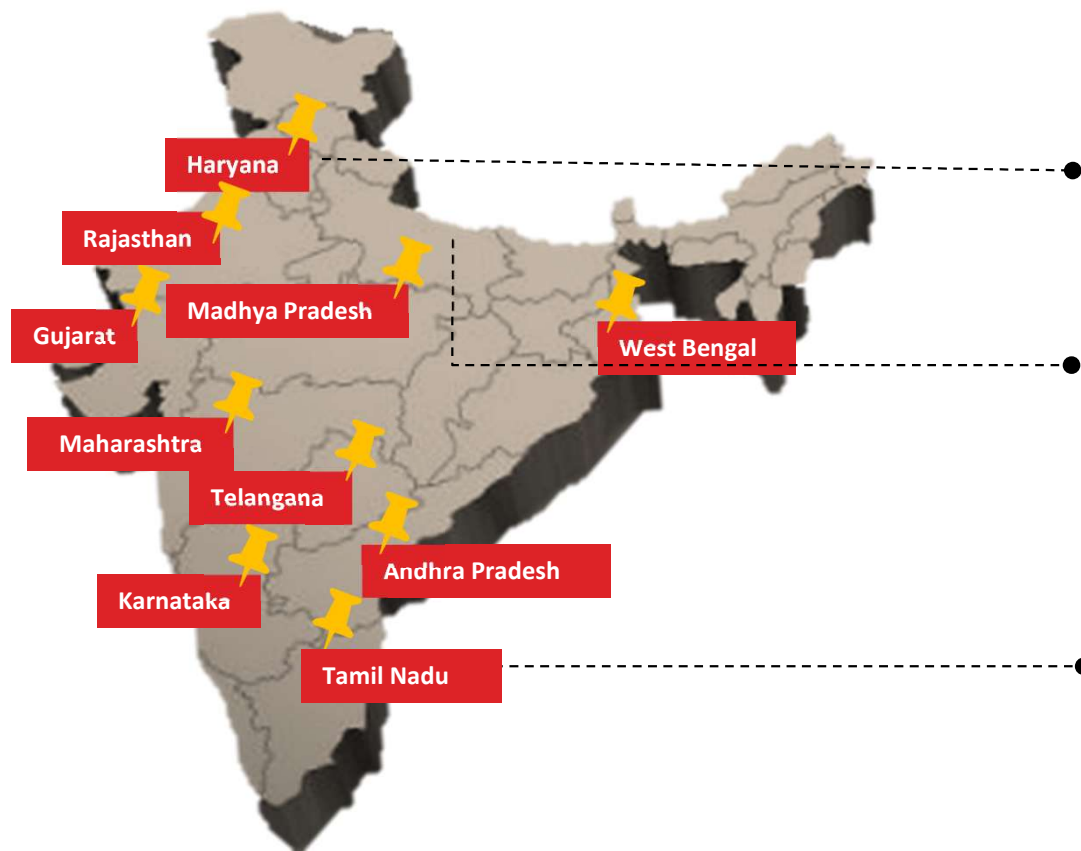
Calcutta High Court -

Madhu Intra Limited v. Registrar of Companies

Calcutta High Court in case of Emami Biotech however followed the supreme court view in case of Hindustan Lever

Scheme (2/6) - *NCLT / High Court order defined as conveyance*

Some States where NCLT / High court order is specifically defined as "Conveyance"



Delhi and Punjab

NCLT order is not included in the definition of Conveyance

Uttar Pradesh

Specific entry for a Scheme of Amalgamation (however the same has **not been notified**).

In the case of **Hero Motors**, Allahabad High Court held that - Scheme of Arrangement sanctioned by the Court is a conveyance and an instrument within the meaning of Indian Stamp Act

Tamil Nadu

1st March 2019 – Order to implement Budget Speech announcement fixing stamp duty on transfer of property on amalgamation at **2% of the market value of immovable property**, subject to a maximum of ₹25 crore. The alternative levy of **0.6% of the aggregate market value of shares** was **struck down** by the Madras High Court in *State of Tamil Nadu v. Serene Estate Pvt. Ltd.* (2024).

19th February 2020 – Order to clarify retrospective applicability of above duty **w.e.f. 1st April 1956**

Scheme (3/6) - *Stamp duty on conveyance*

Delhi

- Stamp duty in Delhi is governed by ISA and as there is no specific entry in the ISA, However pursuant to the judgment in the case of Delhi Towers, the stamp duty on court order will be governed by article 23 of Schedule I-A of ISA i.e. 3% of the consideration amount set forth in the instrument.
- Basis of computation of stamp duty in Delhi is not clarified and its generally payable on the fair value of shares issued or circle value of immovable properties transferred in Delhi, as per NCLT order, whichever is higher.
- NCLT order approving merger of subsidiary [90% or more] with parent company not be liable for stamp duty in Delhi

The Central Government's **Notification No. 13 dated December 25, 1937**, provides a complete exemption from stamp duty for the transfer of assets between a parent company and its subsidiary (or between two subsidiaries), provided that at least **90%** of the issued share capital is beneficially owned by the parent.

Delhi High Court in the recent 2024 landmark judgment of ***Ambuja Cement Ltd. v. Collector of Stamps***. The Court explicitly upheld the applicability of the 1937 Notification in Delhi and quashed the stamp authorities' demands. → Appeal before the Division bench pending.

Judgement in case of Delhi Towers

Facts of the case

- Merger of 15 subsidiaries with parent company
- Transferee and one of the transferors registered in Delhi

Courts Decision

- The Delhi High Court held that ,merely because the legislature has not amended the existing statutory provisions as applicable to Delhi to specifically include 'transfer of property under a Court order approving a scheme of amalgamation' in the definition of 'conveyance it does not amount to exclusion from applicability of the Indian Stamp Act and chargeability to stamp duty thereon.
- The statutory definition of 'conveyance' under subsection (10) of Section 2 is an inclusive definition of wide import which can not be confined to specific instruments mentioned in the statute. Hence the Court held that conveyance of property under High Court order u/s 394 is liable to stamp duty.

Scheme (4/6) - *Stamp duty on conveyance*

Maharashtra

- Article 25(da) of Schedule I of Maharashtra Stamp Act states that stamp duty in relation to the order of NCLT under Sections 230 to Section 234 of Companies Act 2013 shall be the **higher of**

- ✓ An amount equal to **5% of the true market value of immovable property located within the State of Maharashtra** transferred by the Transferor Company to the Transferee Company; or
- ✓ An amount **equal to 0.7% of the aggregate of the market value of shares issued or allotted by** the Transferee and the amount of consideration paid.

Subject to a **maximum cap of**

10% of the aggregate of the market value of shares issued or allotted

or

25 Crores, whichever is lower

Explanation -

- Appointed Date – share swap ratio as on the appointed date to be considered
- Transferee Company whose shares listed on stock exchange – market value of shares on the appointed date mentioned in the Scheme of Amalgamation or when the appointed date is not fixed, the date of the order of the High Court/NCLT
- Transferee Company whose shares are not listed the market value of the shares issued or allotted will be **determined with reference to the market value of the shares of the transferor company or as determined by the Collector after giving the transferee company an opportunity of being heard.**
- The **INR 25 Crore** cap is a statutory limit established by government notification (dated May 6, 2002) and recently reaffirmed by the Bombay High Court in *Schaeffler India Ltd. v. Chief Controlling Revenue Authority* (2026).

Scheme (5/6) - *Stamp duty on conveyance*

Gujarat

- Article 20(d) Schedule 1 of Gujarat Stamp Act, 1958 states that stamp duty in relation to the Order of High Court under Section 394 of Companies Act, 1956 or every order made by the National Company Law Tribunal under sections 230 to 234 of the Companies Act, 2013 for reconstruction or amalgamation shall be **higher of the following**
 - ✓ An amount equal to **1% of the aggregate amount** comprising of the
 - market value of share issued or allotted in exchange or otherwise, or
 - the face value of such shares,
whichever is higher; or
 - ✓ An amount equal to **1% of the true market value of the immovable property situated in the State of Gujarat** of the transferor company

Subject to maximum cap of Rs. 50 Crores per party*

Explanation -

- Transferee Company whose shares are listed and quoted for trading on stock exchange – market value of shares on the appointed day mentioned in the Scheme of Amalgamation or when the appointed date is not fixed, the date of the order of the High Court
- Transferee Company, whose shares are not listed or listed but not quoted for trading on stock exchange – means the market value of the shares issued or allotted with reference to the **market value of the shares of the transferor company**
- Where the transferee company and the transferor company, whose shares are not listed means the face value of shares issued or allotted **with reference to the face value of the share of the transferee company**
- **Procedural Timeline (Sec. 17):** The NCLT order for amalgamation, merger, demerger, or reconstruction must be officially stamped **within 60 days** from the date of the order*

**NOTE: The timeline was extended from 30 to 60 days, and the transaction cap was revised to ₹50 Crores under The Gujarat Stamp (Amendment) Act, 2025 (Act No. 8 of 2025), effective from April 10, 2025.*

Scheme (6/6) - *Stamp duty on conveyance*

Telangana / Andhra Pradesh

Article 20(d) of Schedule 1-A of the Indian Stamp Act 1899 provides that stamp duty in relation to the order of High Court under section 394 of Companies Act, 1956 or every order made by the National Company Law Tribunal under sections 230 to 234 of the Companies Act, 2013, shall be calculated in the following manner:

- 2% of the market value of property,
- Subject to maximum of Rs. 20 Crores - **not applicable in case of Andhra Pradesh**

Explanation - Market value of property shall be deemed to be the amount of total value of shares issued or allotted pursuant to the Scheme

Rajasthan

The higher of:

- **1%*** of the aggregate market value or face value of shares issued/allotted (whichever is higher) plus consideration paid; OR
- **4%*** of the market value of the immovable property situated in Rajasthan.
- **Subject to max of INR 25 crores***

***This was formalized via Rajasthan Finance Department (Tax Division) Notification No. F.4(2)FD/Tax/2024-75**

Karnataka

The higher of following two -

- 5%* on MV of property located within Karnataka
- 5%* of aggregate value of shares issued or allotted in exchange, or otherwise and in case of subsidiary company, shares merged (or cancelled) with parent company and amount of consideration if any paid for such amalgamation
- ***This was formalised via The Karnataka Stamp (Amendment) Act, 2023, which went into official effect on February 3, 2024**

Haryana

The higher of following two -

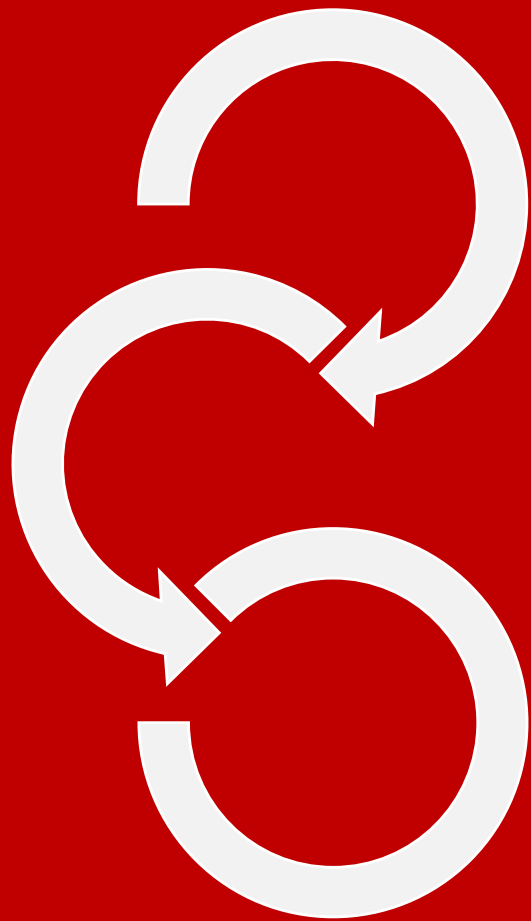
- 1.5% of the market value of the immovable property located within Haryana; or
- 1.5% of MV of shares issued & consideration paid
 - **Subject to max of INR 7.5 crores**

West Bengal

5%-7% of MV of shares and consideration paid subject to a maximum of the higher of:

- 2% of the market value of the immovable property located within WB; or
- 0.5% of MV of shares issued & consideration paid

The temporary 2% stamp duty remission and 10% circle rate reduction schemes (originally introduced on October 30, 2021, to combat the pandemic economic slowdown) were officially discontinued and revoked effective July 1, 2024, via Finance Department Notification No. 1730-F.T.



M&A – Case Studies

Case Studies (1/8) *Composite Scheme - No Inter-se Split*

(Ambuja Cement Ltd. v. CCRA, C/SR/1/2020 (Guj HC) 2023)

Ambuja Cement Limited

Composite Scheme of Reconstruction (involving multiple transferor/transferee entities)



Group/Resultant Companies
across different limbs of the composite
scheme

Single, integrated scheme effecting reconstruction through multiple inter-linked steps

Revenue Authority's Stand:

Sought to treat each limb/step of the composite scheme as a separate chargeable instrument

Facts of the case

- Ambuja Cement undertook a composite scheme of reconstruction sanctioned by the NCLT, structured through multiple inter-linked steps/limbs involving group entities.
- The stamp authorities sought to assess and levy stamp duty separately on each limb of the composite scheme, treating them as distinct chargeable instruments.

Issue for consideration

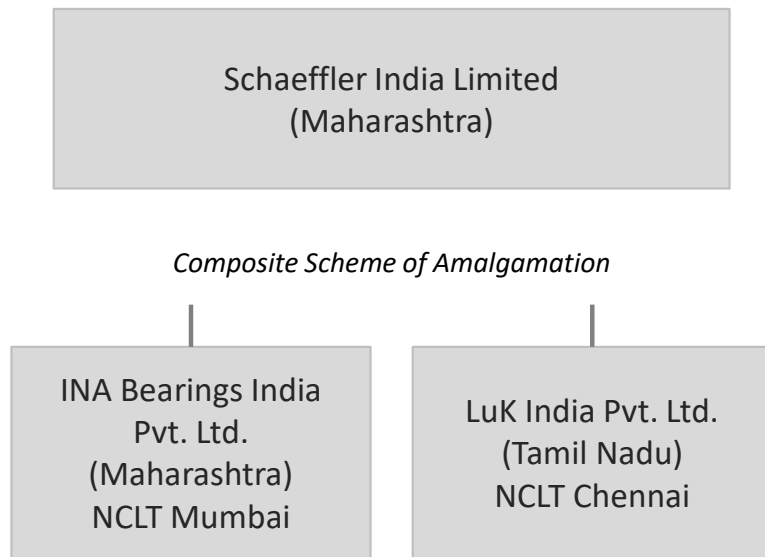
- Whether a single, composite scheme of reconstruction sanctioned by one NCLT order can be inter-se segregated into multiple instruments for the purpose of levying stamp duty.

Court's Decision

- A composite scheme of reconstruction is one integrated instrument and cannot be artificially split into its constituent steps for stamp duty purposes.
- Stamp duty is chargeable on the instrument (i.e., the NCLT order) as a whole, and not separately on each transaction or step embedded within the composite scheme.
- The Gujarat High Court's reasoning was subsequently relied upon and followed by the Bombay High Court in Schaeffler India Ltd. v. CCRA.

Case Studies (2/8) *Composite Scheme - Single Instrument*

(Schaeffler India Ltd. v. CCRA, Pune (Bom HC) 2026)



Composite Scheme of Amalgamation

Merging into Schaeffler India

Single composite scheme amalgamating two transferor companies (located in two different states) into one transferee company

Revenue Authority's Stand:

Treated as 2 separate transactions – duty demanded INR 50 crores (INA Bearings leg + LuK India leg)

Facts of the case

- Schaeffler filed a composite scheme to amalgamate INA Bearings and LuK India into itself, with shares to be issued to shareholders of both transferor companies.
- As LuK India was based in Tamil Nadu, the scheme was sanctioned by NCLT Chennai; INA Bearing and Schaeffler being in Maharashtra, a parallel petition was sanctioned by NCLT Mumbai.

Issue for consideration

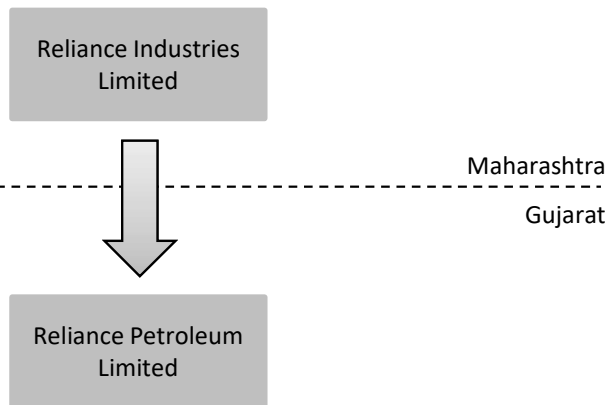
- Whether the NCLT Mumbai order, sanctioning a composite scheme involving two transferor companies, could be treated as two separate instruments and stamped accordingly.

Court's Decision

- A composite scheme of reconstruction cannot be internally segregated for stamp duty purposes; the amalgamation of LuK India did not constitute a distinct transaction.
- Stamp duty is levied on the instrument (the NCLT order), not on the underlying transaction – the impugned order erroneously assessed duty on the transaction.
- Duty paid on the NCLT Chennai order was immaterial while assessing duty on the NCLT Mumbai order; that issue lay with the Chennai authorities.
- **Schaeffler held liable to pay duty only on the NCLT Mumbai order under Article 25(da), capped at INR 25 crores; excess duty ordered refunded.**

Case Studies(3/8) - *Two or more NCLT order*

(CCRA v RIL and RPL (Bom HC) 2016)



Amalgamation of the two group companies having registered office in two different states

Stamp Duty Payable:

- a. Gujarat – INR 10 crores
- b. Maharashtra – INR 25 crores

No set off available of stamp duty already paid in Gujarat

Facts of the case

- RIL had already paid stamp duty of INR 10 crores in Gujarat on the order of Gujarat HC of which RIL claimed a set off while paying duty in Maharashtra

Issue for consideration

- Whether INR 10 crores paid in Gujarat was eligible for rebate while paying duty in Maharashtra?

Courts Decision

- As per Bombay HC, the instrument is the order of the Bombay HC itself.
- This instrument was originated and executed in the state itself, without any inter-linkage with the order of Gujarat HC.
- The HC order of the other state is not a pre-requisite for Bombay HC to pass its order, or for payment of stamp duty.
- In the present case, the rebate under the Stamp Act could not be availed by RIL as such rebate is available to instruments executed outside the state of Maharashtra and brought into the state

Case Study(4/8) — *Cross-State Stamp Duty Set-Off Rules*

The State of Tamil Nadu and Anr. v. Serene Estate Pvt. Ltd.

W.A. Nos. 758, 687, 751, 755 & 851 of 2022 — Madras HC, Decided 19.02.2024

Shriram Capital Ltd. & Group Companies
(Scheme of Amalgamation sanctioned by
NCLT, Order dt. 09.11.2022)

Instrument presented
for registration in
Tamil Nadu
(Stamp duty
demanded)

Stamp duty
already
paid on same
scheme
in another State

Companies' Argument:

Duty already paid on the same instrument in another State should be set off against Tamil Nadu's demand — the same scheme cannot be taxed twice as if it were a fresh, unstamped instrument.

Facts of the Case

- NCLT sanctioned a scheme of amalgamation for Shriram Capital Ltd. and group companies. The order, along with the scheme, was presented for stamping/registration in Tamil Nadu.
- Tamil Nadu authorities sought to levy duty under Article 23 of Schedule I, relying on a 2018 Circular and G.O.(Ms.) No. 29/2019 prescribing 2% of market value of immovable property or 0.6% of aggregate share value, whichever higher — later made retrospective to 1956 by G.O.(Ms.) No. 47/2020.
- The companies contended that duty already paid on the same instrument in other States ought to be credited against the Tamil Nadu demand.

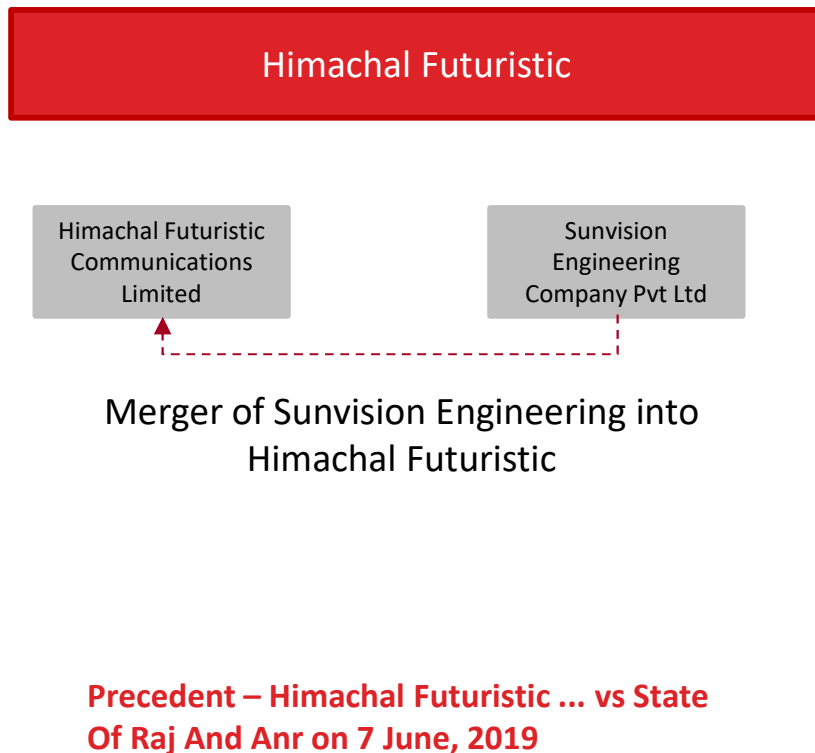
Issue for consideration:

Whether stamp duty paid on the same amalgamation instrument in one State can be set off against the duty demanded on the same instrument in another State, and whether the State could prescribe/reduce duty by executive notification alone.

Court's Decision

- The Madras HC held that an NCLT/Court order sanctioning amalgamation, along with the scheme, is an "instrument" under Sec. 2(14) and chargeable as a "conveyance" under Article 23, Schedule I — no further legislative amendment is needed to bring it within the levy.
- Cross-State set-off upheld: where duty on the same instrument has already been paid in another State and that duty equals or exceeds the amount payable in Tamil Nadu, no further duty is payable in Tamil Nadu; if the duty paid elsewhere is lower, only the balance difference is payable.
- The State's power to reduce/remmit duty on immovable-property instruments by executive notification (G.O.) was upheld; however, the separate 0.6% levy on aggregate share value required legislative sanction and was struck down as it could not be introduced by executive notification alone.

Case Studies (5/8) - *Multi State involvement*

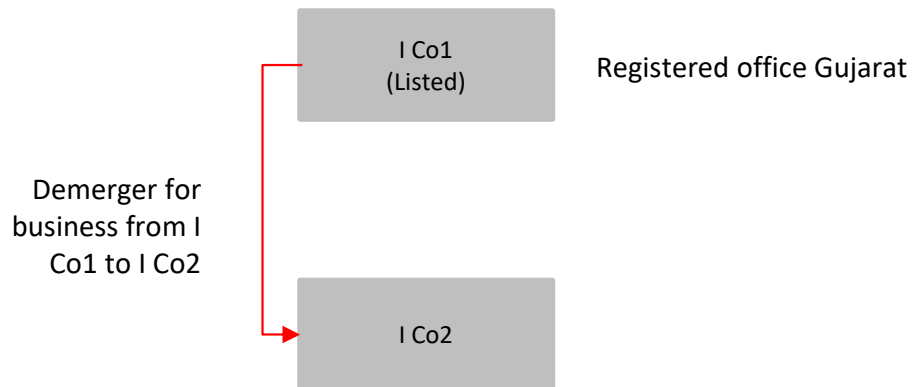


Key Mechanics:

- Merger of Sunvision into Himachal Futuristic – scheme sanctioned by High Court of Himachal Pradesh
- Sunvision held 14 parcels of land in the state of Rajasthan
- The company filed for mutation of property in the state of Rajasthan
- The Assessee argued that the stamp duty payable in Rajasthan must be restricted to the value of immovable property and not with respect to the value of shares issued

The HC of Rajasthan held the stamp duty is levied on the instrument which is the Court Order. Thus the stamp duty was calculated on the entire value of shares issued and stamp duty of INR 21 Crores was payable vis-à-vis a very low amount on the value of land

Case Studies (6/8) – *Peculiar issue in Gujarat Stamp Duty*



Key Mechanics:

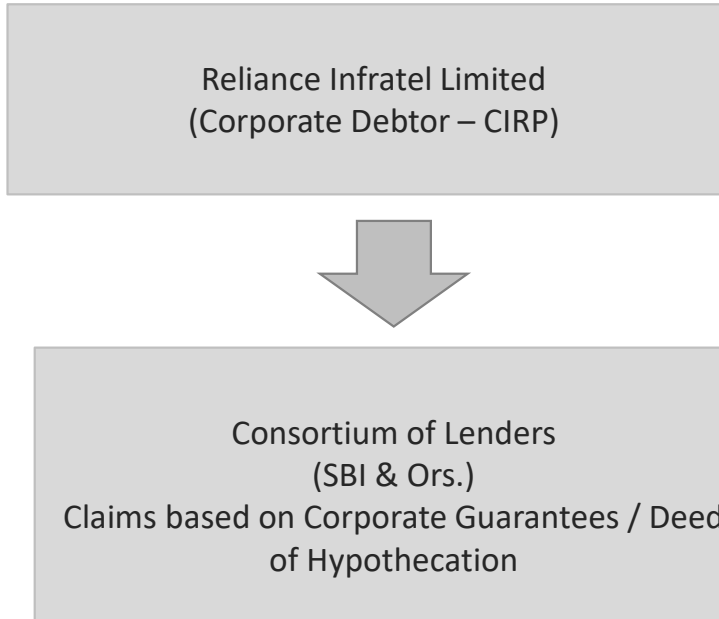
- Demerger of business from I Co 1 to I Co2, where I Co1 is listed company having registered office in Gujarat.
- In consideration, I Co1 to issue 1:1 share to the shareholders of I Co2, for instance 1 Lacs shares.
- Since the registered offices of ICo1 situated in Gujarat, stamp duty is payable in Gujarat on NCLT order.
- Fair value of listed company as on appointed date INR 50 per share. Total value 1 Lac shares x INR 50 = INR 50 Lacs
- Fair Value of the demerged undertaking say 10 Lacs only

As per the judicial precedent, stamp duty shall be payable on 1% of 50 Lacs instead of 1% of 10 Lacs

Stamp duty ? – whether can be restricted to value of the undertaking. 1% of 10 Lacs ?

Case Studies (7/8) *Stamping Defect Cannot Defeat Creditor Claims*

(SBI & Ors. v. Doha Bank Q.P.S.C. & Anr. (SC) 2026)



Claims rejected by NCLT/NCLAT, inter alia, on the ground of insufficient stamping of the guaranteed documents

Lower Authorities' View:

Insufficient stamping → instrument unenforceable → claims rejected, lenders de-recognised as financial creditors

Facts of the case :

- A consortium of lenders led by SBI claimed as financial creditors of Reliance Infratel Limited (under CIRP) on the strength of corporate guarantees/deed of hypothecation executed in their favour.
- The claims were rejected by the NCLT and NCLAT on grounds including alleged irregularities in execution and insufficient stamping of the guaranteed documents.

Issue for consideration

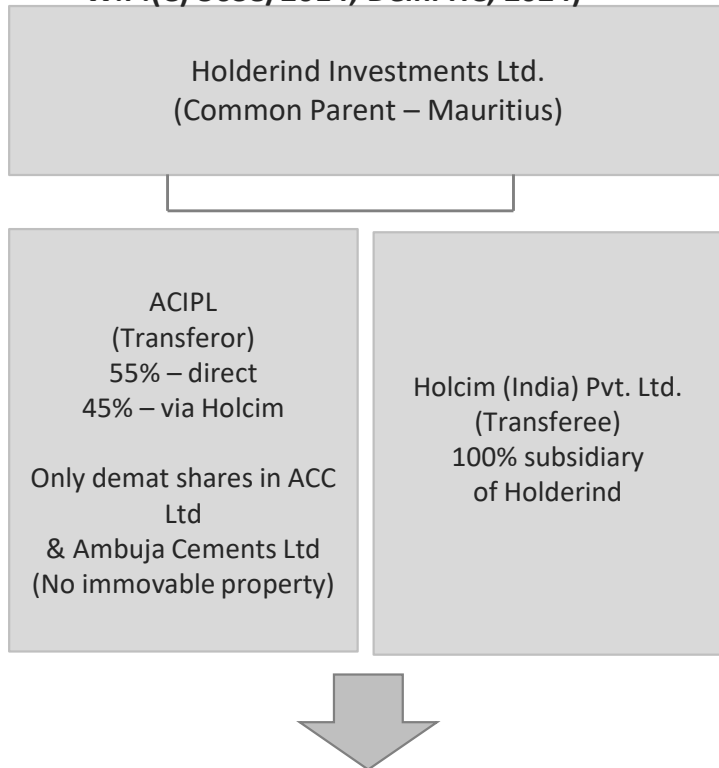
- Whether an instrument that is insufficiently stamped is rendered void/unenforceable, such that a creditor's claim founded on it can be rejected outright.

Court's Decision

- Liability arising from a corporate guarantee squarely falls within “financial debt” under Section 5(8) of the IBC.
- Insufficient stamping is a curable defect – it does not render an instrument void or unenforceable.
- Stamp duty law is a fiscal measure to secure state revenue and cannot be used as a tool to defeat legitimate creditor claims.
- Findings of NCLT/NCLAT held perverse; orders set aside and lenders' status as financial creditors restored, with direction to reconstitute the CoC.

Case Studies (8/8) - *Movable Property & Demat Shares*

(Holcim (India) Pvt. Ltd. v. Collector of Stamps, Delhi –
W.P.(C) 5638/2014, Delhi HC, 2024)



Transferee Company's Argument:

Only movable property (demat shares) transferred – no immovable property involved – hence the merger order is not a chargeable “conveyance” and no stamp duty is payable

Facts of the case

- ACIPL and Holcim (India) Pvt. Ltd., both operating as wholly owned subsidiaries of a common parent company named Holderind (Mauritius), entered into a scheme of amalgamation. Following this merger, the Collector of Stamps demanded ₹218.87 Cr. in stamp duty and a ₹69 Cr. penalty by classifying the court's order as a chargeable conveyance.

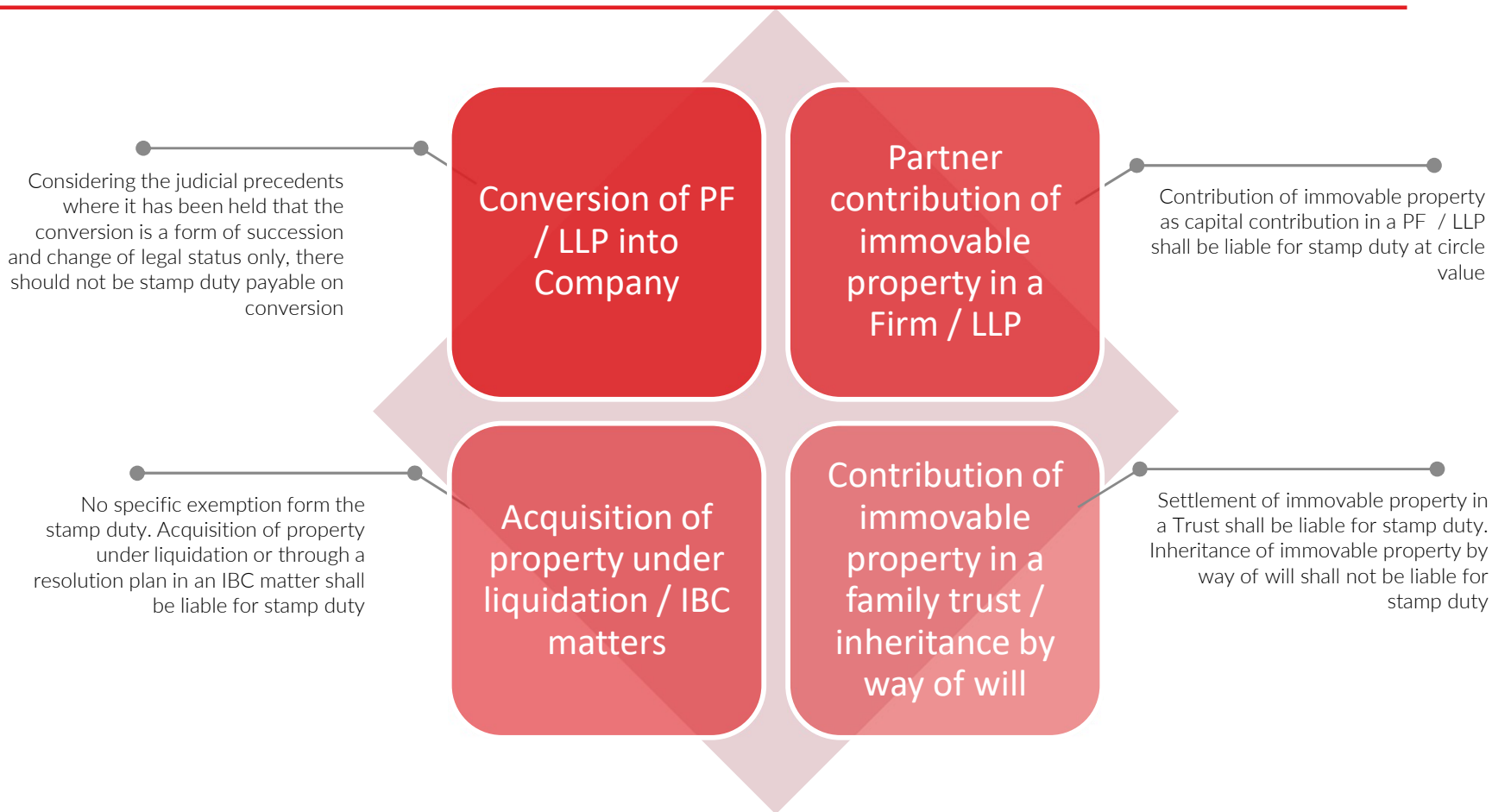
Issue for consideration:

The critical issue was whether the amalgamation qualified for a stamp duty exemption under the 1937 Notification, specifically evaluating if the mandatory $\geq 90\%$ shareholding condition could be satisfied even when the shares were not directly held by the parent company..

Court's Decision

- The Court set aside the duty demand, confirming that the 1937 Notification (Notification No. 13) remains legally valid and extends its exemption to structures where the common parent holds the requisite $\geq 90\%$ share capital indirectly. Because Holderind (Mauritius) indirectly held 100% of the share capital in both merging companies, effortlessly satisfying the threshold despite the lack of direct ownership, the transfer was declared completely exempt from the stamp duty levy..

Other transactions





Thank You!

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