Company Law

Avtar Singh



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Company Law

by

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To My Father

Gyani Ganga Singh

PREFACE TO THE FOURTEENTH EDITION

The Companies Act has been amended two times during the period intervening between the last and the present editions. One of the Amendment Acts has brought into the Companies Act a huge new part on producer companies. Going through its provisions, it seems as if an Act within an Act has been constructed. The whole set of provisions is meant to give encouragement to cooperatives by conferring upon them the status and advantages of incorporation, this part has already been brought into force.

The Second Amendment Act, apart from making other changes, also brings in a new part providing for Revival and Rehabilitation of Sick Industrial Companies. This part has not yet been enforced. Earlier to this Act, the phenomenon of sick industrial companies was in the care of the Sick Industrial Companies (Special Provisions) Act, 1985 under which the Board of Industrial and Financial Reconstruction was constituted which made its efforts for salvaging of such companies by providing protection from devouring state of liabilities and by adopting schemes of revival. The Legislature in its wisdom thought that the phenomenon of corporate industrial sickness should be encountered through a single Act, namely, the Companies Act, instead of creating duplicity of authorities. The fate of such companies will now be handled by the National Company Law Tribunal. This Tribunal will make its efforts consistently with the new provisions to provide relief and rehabilitation to sick industrial companies.

The Second Amendment Act also makes a serious reallocation of the role of different authorities under the Companies Act. The adjudication of company matters is now basically going to be done by the National Company Law Tribunal. Appeals from the decisions of this Tribunal are to go to the Appellate Tribunal and further appeals to the Supreme Court. The Company Law Board is going to be abolished. The whole of its jurisdiction will be transferred to the Tribunal. Apart from that, almost the whole chunk, barring a few matters of the jurisdiction of the courts under the Companies Act, will be vested in the Tribunal. Some part of the jurisdiction of the Central Government is also going to be vested in the Tribunal. Thus, there will be only two principal authorities under the Act, namely, the Tribunal and the Central Government. The jurisdiction of the courts has been marginalised.

Apart from this line of statutory developments, there has been the usual flow of legal decisions, rather more than usual this time. The

matters relating to transfer of shares have had the heaviest crop in this respect. Other matters which also attracted litigation relate in bulk to amalgamations, oppression and mismanagement and winding up.

The present edition has absorbed all these developments into it.

—AVTAR SINGH
(Vidya Bhushan, Hindi Sansthan, U.P.)

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