

Preface

It is a very wise saying - If nothing ever changed, there would be no butterflies. Indeed change is the only thing that remains constant and so has there been an overhaul (and not just a change) in the legal framework governing the corporate sector in India. The Companies Act, 1956 which remained in force for almost 60 years has been partly overridden by Companies Act, 2013 (CA, 2013) and allied rules. Originally the amendment was envisaged as an enabling law to allow regulatory framework to be in consonance with the changing dynamics of the business environment. While the intent of the law makers is well placed, we cannot ignore the fact that the means to the end are as important as the end. Also it remains a lurking question as to whether the new Act achieves the purpose of encouraging corporatisation, while making corporate governance more effective.

Much has been spoken about the Act: the drafting of the law, the haste with which it was implemented, the series of clarifications, notifications, amendments, amendments to amendments, changes in stance that has happened while bringing this law into existence. In the mean time our ranking as a country on ease of doing business as per World Bank's Doing Business Report has been slipping each year downwards. The most recent report ranks us at 142 out of 189 countries surveyed¹. There has been much concern expressed on the change-over but the underlying, beyond the disgruntlement is that we have to adapt to the change, as CA, 2013 will stay for a while.

With more than a year of seasoning to the Act, the corporate India is still trying to fine tune and adjust to the barrage of amendments that have

1. http://www.business-standard.com/article/pti-stories/india-ranked-142-in-latest-ease-of-doing-business-report-wb-114102900066_1.html

come by. A lot of done has to be undone and a lot of new is to be done. In the middle of the change, there been questions galore. Lots of questions keep surfacing in professional forums, discussions groups on corporate laws, and various other places. There is, obviously, no such thing as the last word in law - the day the last word is written, courts will cease to exist. It has taken more than 6 decades of jurisprudence for several tricky questions on the Act, 1956 to get settled - it may take decades for lots of questions on the 2013 Act also to reach some finality. For several years, we will have to face the flux, since corporate governance standards are also adjusting to changes in corporate laws.

This book is our effort in framing, assimilating and poking lots of questions. The collection of questions in the book is from questions that we have faced in the process of implementation of the law, as also questions that we have ramped up as we tried dissecting the Act, the allied rules, etc. We have not kept ourselves limited to the Companies Act: we have cross referred provisions from other applicable laws, where possible, listing agreement, etc., tried deciphering provisions and offering solutions with regard to legal interpretations and on practical implementation of the Act.

Needless to say that for the corporate world this legislation has been the most significant piece of amendment and while discussing the Act threadbare in this book we have tried addressing the changes and the challenges introduced with this legislation.

Currently, the book contains some 1850 (approx.) questions, importantly on sections which have been enforced.

We look forward to receiving your comments and feedback on nidhi@vinodkothari.com or vinita@vinodkothari.com

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