

SETHNA'S INDIAN COMPANY LAW (10th ed. 1987). By D.C. Singhania and P.S.Sangal. Wadhwa and Co. pp. vol. 1, cxxviii+ 1367; vol. 2, xx+ 1196. Price Rs.525.

COMPANY LAW in India (as in many other countries) long ago ceased to be a matter for the generalist in law. The sheer length of the Companies Act, 1956 and the volume of case law thereon made it a subject for the specialists. The mass of rules, forms, circulars and instructions that have supplemented the present Act increased the complexity of the law. Besides this, a few enactments (apart from the Companies Act) have added to the bulk of Indian company law.

The book under review¹ is in two volumes and is in the form of a commentary on the Companies Act, 1956. The main function of such commentaries (as generally understood in India) is to give a gist of the reported decisions on the Act commented upon. But the book also presents a short treatment of company law in selected foreign countries, as also some material published by the Institute of Company Secretaries of India. This is a welcome feature of the book.

So far as the case law on the Companies Act is concerned, the book seems to give a fairly satisfactory coverage of reported decisions. The authors have not shrunk from the task of offering critical comments at a few places. This should prove to be useful.

However, the book can be made more useful if certain matters of presentation and style are attended to. For example, at some places,² there is need for more headings or sub-headings so as to enable the reader to locate the desired point quickly. Persons concerned with company law, company management, company accounts and company supervision, whether they are lawyers, company directors, company auditors or company executives or government officers dealing with administration of companies, are busy persons who would appreciate any saving of time that can be effected. They must consult books, but they must do so in a hurry. The larger the number of headings/sub-headings given, the greater will be the saving in time which can be effected.

Another point of detail may also be mentioned. The provisions of Companies Act (as those of any Act, for that matter) are inter-connected. Sometimes, a point arising in practice may involve a look at more than one section. Users of a commentary on voluminous Acts, where number of such occasions is more than average, will welcome as many cross-references as possible. Of course, theoretically, cross-referencing has no limits. One can make it a tedious feature by too much of cross-referencing. Even so, as is shown by experience in this respect, it is better to err on the side of liberality than on the other side. These are not criticisms of the book under review. Rather

1. D.C. Singhania and P.S. Sangal, *Sethna's Indian Company Law* (10th ed. 1987).

2. For e.g. see *id.*, pp. 161-67, 332-35, 514-20, 535-40

they are suggestions for improvement.

On some points, judicial decisions pronounced after the book was written have clarified or settled a few points -- such as the true scope of section 630, the scope of the creditors' remedy for winding up, the ambit of jurisdiction of the Companies Court and so on. But these will certainly be looked into in the next edition.

At places, the treatment of some topics could be more extensive. Thus there is a list of some American cases on tort liability, through subsidiary corporations.³ The facts of the cases could have been given.

At some places, more extensive treatment is needed to deal with some emerging issues. For example, liability of auditors to third parties for mis-statements now requires special treatment when dealing with duties of auditors.⁴ At a few places, facts of the cases cited need to be given in greater detail. For example, in the comment on section 108(1)^{4a} the point of shares vesting by transmission by operation of law is touched. Two cases - *Hoshiarpur Azad Transporter* (1983) and *Killick Nixon* (1983) are just mentioned, but the facts are not given, nor the point decided in those cases summarised. As the point is of importance in practice and recurs daily, more details would be welcome. Incidentally, the case of *Mannalal Khetan* (1977), cited in the book on a different point at page 341 also deserves to be cited on page 342, as it relates to partition. In discussing the legal position regarding name of company,⁵ the authors may like to mention in the subsequent edition, the English case of *Banque v. Euro Seas Group Finance Co.*,⁶ relating to misdescription of name.

It is gratifying to note that the book devotes some space to *ultra vires* (and its reform). One of the cases cited is *Bell Houses Ltd. v. City Wale Properties Ltd.*,⁷ where the transaction was held to be within the company's objects. However, the judgment of Salmon, L.J., in that case raised the important query whether the company can recover on an *ultra vires* transaction. This question now deserves to be considered at length in India also, at least until the doctrine is abolished by statute.

Some uniformity in typography would be an improvement. For example, the year of a case cited is sometimes given within brackets, and sometimes without brackets. Thus, the case of *Pramod Kumar Mittal*⁸ is given with the year in brackets. On the same page, the case of *Murty v. Industrial Development Corporation*,⁹ is cited with the year without brackets. At some places, the High Court's name is given.¹⁰ but at many places, the High Court is not

3. *Id.* at 640.

4. *Id.* at 592.

4a. *Id.* at 342.

5. *Sec id.*, pp. 127-130.

6 (1981) 3 All E R. 198.

7. (1966) 3 W.L.R. 1323.

8. *Supra* note 1 at 884.

9. *Ibid.*

10. See for e.g., *supra* note 1 at 884 - Patna Case of *Rai Mathura Prasad*.

mentioned while giving the "Comp. Cas." citation.¹¹

On the whole, this is a good and useful book. The get up is good. The book has a nice photograph on the cover - apparently a photograph of a company director's room. This feature is bound to be emulated by other publishers in due course.

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11. See for *e.g.*, pp. 162, *Joseph v Jos*, 1964, 34 Comp. Cas. 931; 166, *Panipat Woollen and General Mills Co. v. Kaushik*, 1969, 39 Comp. Cas. 249; 247, *Dwarkadas v Tirumalapad*, 1945, 15 Comp. Cas. 178; 249, *Chatterjee v. Bhave*, 1962, 32 Comp. Cas. 830; 257, *Gupta v. Malak*, 1939 Comp. Cas. 201; and 328, *Globe United Engineering and Foundry Ltd. v. Industrial Finance Corporation of India*, 1974, 44 Comp. Cas. 347.

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