

# INDIA LEGAL UPDATE

wishes its readers a warm, happy and prosperous new year



**RAVI SINGHANIA**

**VANTAGE POINT**

## New Business Laws Open Exciting Opportunities in India

Deals are my art form. Other people paint beautifully on canvas or write wonderful poetry. I like making deals, preferably big deals. That's how I get my kicks.

—Donald Trump, *The Art of the Deal*



Just as the warm and wonderful glow of a rosy-fingered economic dawn has begun to peep and shine through the darkness of global recession, as India traipses at a robust growth rate of 7.9 per cent, and as global pundits including the World Bank president Robert Zoellick predict a resounding Indian economic “bounce back” to 9 per cent in the next two or three years, it may well be a good time to make the deal and enjoy the kick! The kick of a firm growth—based on sound economic fundamentals, robust internal savings, positive capital investment and burgeoning demand.

The good news: Not just the numbers, the business climate in India has also become more favourable. With all the goodness of a laissez faire economy, free from the shackles of governmental red-tapism and interference beyond the minimum necessary, with free-enterprise system ready to operate according to its own economic laws, today's India is emerging as a favourite destination for setting up shop.

The business laws in the country are also keeping in step with the global trends and developments. Quick on the heels of the changes in the developed economies, a number of progressive new laws and legislations have been set in place. The Government has invited free and fair discussion, encouraged innovative ideas from bodies marshalling trade and commerce in this country, and passed new laws.

Of the several new legislations, the birth of the Limited Liability Partnership (LLP) in April 2009 is a big step forward. Offering the twin benefits of managerial and financial flexibility of a partnership firm and the limited liability and perpetual succession of a company incorporated under the Companies Act, it offers exciting new opportunities for trade and commerce in all segments. Venture capitalists, entrepreneurs wishing to set up technology-based or knowledge-based units, professional service providers such as company



The business laws in India are keeping in step with the global trends and developments. The birth of the LLP, notification of new operative provisions in Indian Competition Act, and the concept of Corporate Social Responsibility credits are just some of the symbols of this progressive change.

secretaries, chartered accountants, cost accountants, lawyers, and other consultants—all can equally benefit from this new law. With the government working to bring limited liability partnerships within the scope of foreign direct investment (FDI) guidelines, this would pave the way for easy participation of overseas investors and players.

The lawmakers have also been quick to frame laws to thwart the dangers of predatory pricing. The operative provisions of Indian Competition Act, which were notified on May 20, 2009 aims to check such trade malpractices as abuse of dominance.

Of the several innovative ideas currently doing the rounds, the concept of Corporate Social Responsibility credits appears to be truly novel. Set on the lines of carbon credits, companies may soon be vying with each other to earn and trade in such credits.

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# Limited Liability Partnership: Welding the best in a Company and Partnership Firm

AAKANKSHA AGARWAL

Limited liability partnership promises to be the new mantra of success in the emerging economic order. It offers the twin benefits of internal governance flexibility inherent in a partnership firm and the limited liability of a company. LLP facilitates pooling of resources between multidisciplinary professionals.

**B**rought into being on April 1, 2009, the LLP Act spells the birth of a new legal entity for business and profession. Given the name of Limited Liability Partnership (LLP), it offers a first-rate model for corporate business. Born out of wedlock between the most befitting principles that govern a company with all that's good in a partnership firm, the new model endeavours to combine, organize and operate professional expertise and entrepreneurial initiative in an innovative and efficient manner.

The new entity welds the twin benefits of managerial and financial flexibility of a partnership firm with the limited liability and perpetual succession of a company incorporated under the Companies Act. The central theme, however, is to enable professionals to come together and operate their business in a much less complicated manner than that provided for under the current Companies Act and the Partnership Act.

## Potential Beneficiaries

Businesses—be it trade, commerce, manufacturing, service, profession, or any other—can form a LLP.

The beneficiaries of the LLP model may include entrepreneurs from a variety of businesses and industries. Venture capitalists, entrepreneurs setting up technology-based or knowledge-based units, professional service providers such as company secretaries, chartered accountants, cost accountants, lawyers, and other consultants could be the potential beneficiaries.

## Core Provisions in the LLP Act

- LLP is a body corporate, formed and incorporated under the LLP Act. It is a legal entity separate from that of its partners.
- It shall have perpetual succession.
- Any change in the partners of a LLP shall not affect the existence, rights or liabilities of the LLP.
- Unless so provided in the Act, the provisions of the Indian Partnership Act shall not be applicable to a LLP.
- Any individual or body corporate may be a partner in a LLP. An individual shall not be capable of becoming a partner of a LLP, if s/he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force; s/he is an undischarged insolvent; or s/he has applied to be adjudicated as an insolvent and his application is pending.
- Every LLP shall have at least two partners. If at any time, the number of partners of a LLP is reduced below two and the LLP carries on business for more than six months while the number is so reduced, the person, who is the only partner of the LLP during the time that it so carries on business after those six months business with him along, shall be liable personally for the obligations of the LLP incurred during that period.
- Every LLP shall have at least two designated partners who are individuals and at least one of them shall be a resident in India, provided, in case of a LLP in which all the partners are bodies corporate or in which one or more partners are individuals and bodies

corporate, at least two individuals who are partners of such LLP or nominees of such bodies corporate shall act as designated partners.

- Prior consent of an individual is required for his appointment as Designated Partner.
- Every designated partner of a LLP will obtain a Designated Partner Identification Number (DPIN) from the Central Government.
- A designated partner shall be responsible for the doing of all acts, matters and things as are required to be done by the LLP in respect of compliance of the provisions of this Act including filing of any document, return, statement and shall be liable to all penalties imposed on the LLP for any contravention of those provisions.
- LLP will be required to appoint a designated partner within 30 days of a vacancy, if any. However, if no designated partner is appointed, or if at any time there is only one designated partner, each partner shall be deemed to be a designated partner.

### **Obligations and Liabilities of the LLP and its Partners**

- Every partner will be an agent of the LLP, for the purpose of the business of the LLP, but not of other partners.
- The LLP will be liable if a partner is liable to any person as a result of a wrongful act or omission on his part in the course of the business of the LLP or with its authority.
- An obligation of the LLP whether arising in contract or otherwise, shall be solely the obligation of the LLP.
- The liabilities of the LLP shall be met out of the property of the LLP.
- Where an act by an LLP or a partner thereof is done with the intent to defraud creditors of the LLP or any other person, or for any fraudulent purpose, the liability of the LLP and partners who acted with intent to defraud creditors or for any fraudulent purpose shall be unlimited for all or any of the debts or other liabilities of the LLP. However, in case any such act is carried out by a partner, the LLP will also be liable to the same extent



as the partner unless it is established by the LLP that such act was without the knowledge or the authority of the LLP.

- If, any partner or employee of an LLP has provided useful information during investigation of such LLP or when any information given by any partner or employee (whether or not during investigation) leads to LLP or any partner or employee of such LLP being convicted under this Act or any other Act, the Court or Tribunal may reduce or waive any penalty against such partner or employee who has provided the information.
- No partner or employee of any LLP can be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against the terms and conditions of his LLP or employment merely because of his providing such information or causing such information to be provided.

### **Role and Financial Rights of Partners**

- A partner may contribute to the capital of LLP by way of contribution brought in as money or property (tangible or intangible) or other benefit of monetary value such as rights or services. Monetary value of contribution of each partner shall be accounted for and disclosed in the accounts of LLP.
- In the absence of any contrary provision in LLP Agreement, all partners are entitled to share equally in capital, profits and losses of LLP.
- A partner may lend money to and transact business with the LLP and shall have the same rights and obligations with respect to the loan or other transactions as a person who is not a partner.
- A partner may transfer his financial rights (e.g. right to a share of the profits or right to receive distribution in winding up) to any person but such transferee shall not be entitled to participate in the management or conduct of the LLP nor such a transfer by itself cause the transferor-partner's disassociation or a dissolution and winding up of the LLP.

In a LLP, a partner may contribute to the capital of LLP through a contribution brought in as money or property (tangible or intangible) or other benefit of monetary value such as rights or services. The monetary value of this contribution by each partner, however, must be accounted for and disclosed in the accounts of the LLP.





In the LLP, partners can benefit from each other's expertise and experience and start a business without being accountable for the other partner's conduct. Persons with innovative and creative ideas, but who are short of capital funds, can form LLP by tying up with companies or venture capitalists.

### Financial Obligations of LLP

- The LLP is required to maintain proper books of account as prescribed relating to its affairs for each year of its existence on cash basis or accrual basis and according to double entry system of accounting and shall maintain the same at its registered office for such period as prescribed.
- Every LLP is required to prepare a Statement of Account and Solvency within a period of 6 months from the end of each financial year, and the designated partners of the LLP shall sign such statement.
- Every LLP is required to file within the prescribed time, the Statement of Account and Solvency with the Registrar every year in such form and manner and accompanied by such fees as may be prescribed.
- The accounts of LLP shall be audited in accordance with such rules as may be prescribed. However, the Central Government may, by notification, exempt any class or classes of the LLP from the requirement.
- Every LLP is required to file an annual return duly authenticated with the Registrar within sixty days of closure of its financial year in such form and manner and accompanied by such fee as may be prescribed.
- The incorporation document, names of partners and changes, if any, made therein, Statement of Account and Solvency and Annual Return filed by each limited liability partnership with the Registrar shall be available for inspection by any person in such manner and on payment of such fee as may be prescribed.
- If any LLP commits default in complying with – (a) any provisions of this Act or of any other law which required the filing in any manner with the Registrar of any return,

account or other document or the giving of notice to him of any matter; or (b) any request of the Registrar to amend or complete and re-submit any document or to submit a fresh document, and fails to make good the default within fourteen days after the service on the LLP of a notice requiring it to be done, the Tribunal may, on application by the Registrar, make an order directing the LLP or its designated partners or its partners to make good the default within such time as specified in the order.

### Benefits of LLP

Several developed economies like the US, UK, Germany, Australia and Singapore have embraced the concept of LLP to their advantage. India, an emergent buoyant economy, needs to follow suit. LLP offers several benefits:

- With its hybrid structure, LLP offers the twin benefits of internal governance flexibility inherent in a partnership firm and the limited liability of a company. Being a separate legal entity LLP has the liability to the full extent of its assets, but the liability of its partners is limited to their agreed contributions in the LLP.
- LLP provides a roadmap of success for professionals by bridging the gap between partnership and company. For instance, in the emergent global world order, multidisciplinary professional firms cannot afford to restrict themselves to 20 members. LLP enables Indian professionals to meet the challenges of global market and seize emerging opportunities.
- LLPs facilitate pooling of resources for multidisciplinary professionals. Partners can trust each another and start a business without being accountable for the other partner's conduct.
- LLP will enable existing unincorporated business entities to convert themselves to LLPs or become partners in LLPs. Moreover, persons with innovative and creative ideas, but who are short of capital funds, can form LLP by tying up with companies or venture capitalists. The intellectual contribution of partners can be quantified at the stage of signing of the LLP agreement.
- The legal compliance requirements in respect of LLP are far simpler and easier than that of companies.

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# New Provisions in Competition Act to Rein Predatory Pricing and Abuse of Dominance

ARUN JEROME

Competitive pricing is a standard business practice. It preserves consumer sovereignty with a larger number of competitive products, and is also the manifestation of a free market. To defeat this time-honoured practice, businesses have taken the unholy path of price reduction by way of predatory pricing. The basic idea is to maximize profits by generating an added market power while eliminating, disciplining or inhibiting the competitive conduct of a rival or potential rival. Efficiency of business is not the benchmark for determining predatory conduct.

A laissez faire economy projects competition amongst rivals by offering lower prices or better quality goods and services. Competition laws do not punish enterprises that compete successfully on their merits because less efficient enterprises are driven out of the market. On the other hand, competition laws do prohibit enterprises with a sufficient degree of market power from using that power to harm their rivals and obtain further market power.

In legal as well as common parlance, the term 'predatory pricing' refers to a practice of robbing rivals of their business by selling at a price below the cost of production. This unethical practice has now come under the gun. The provision of 'Abuse of Dominance' under the Indian Competition Act, notified on May 20, 2009 aims to check such malpractices.

## Two-step process

Under this provision, a cause for action arises only if dominance is established. Hence, it essentially becomes a two-step process. Step 1 requires that dominance first be established in the relevant market. Step 2 evaluates the conduct and practices of the enterprise—whether they can be taken as abuse or not.

Under the US law, the Sherman Act protects the market from being swallowed by massive corporations. The Indian law also condemns monopolization. The offence involves two elements. Firstly, the establishment of monopoly power of the alleged predator in the market and secondly, the wilful acquisition of that power as distinguished from growth as a

consequence of a superior product, business acumen or historic accident. These two elements are essential to establish predatory pricing as is in the case of the Indian Competition Act where the prices are first reduced to weed out competition and then hiked with the result that they hurt the consumer.

Determination of predatory pricing is done on the basis of a cost-based analysis in the US. The Indian Competition Act will adopt the same method. However, a purely cost-based approach will not suffice since it does not recognize the complexity of predatory pricing business strategies. Besides factoring the identifiable variables, the calling of 'predatory pricing' would hinge upon the legal acumen as well as the practical instincts of a venerated judge capable of weeding out devious behaviour on part of rogue monopolies.

The most workable method to test predatory pricing is a two-tier test, which would include a screening of the market first, and if predation seems highly unlikely, the case will be dismissed. Such an approach would involve as a screen test an investigation of the relevant market structure which would have to show that predatory pricing is likely to occur, including such aspects as dominance of the alleged predator, the existence of high entry barriers and other market characteristics. The Indian law ensures application of this first crucial step as it puts dominance as the essential prerequisite for establishing prima facie predatory pricing.

An affirmative finding at the first stage would be a green signal to take the investigation into second stage. At this stage, intent to abuse such dominant position would need to be scrutinized along with a cost-based analysis to see if the cost of the product is more than the market price.

The notification of this act would help check predatory pricing and regulate those market players, who may not pay heed to scrupulous business practices and principles in their eagerness to dominate the fast-growing large-sized Indian market.

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Abuse of a dominant position occurs when a firm in the market, or a group of firms, engage in conduct intended to eliminate a competitor or to deter future entry by new competitors, with the result that competition is prevented. The provision of 'Abuse of Dominance' under the Competition Act, notified on May 20, 2009 aims to check such malpractices.



# S&P wins the day for National Highway Authority of India

Different benches of Delhi High Court were consistent in their approach and upheld the submissions of the S & P legal team in all the three arbitration cases between their client, the NHAI, and the construction companies hired by NHAI on varying points of law.

## Case 1

### NHAI vs Som Datt Builders–NCC–NEC (JV)

Case No: FAO (OS) No. 427 of 2007

Court: Division Bench of High Court of Delhi at New Delhi in an appeal under Section 37 (1) (b) of the Arbitration & Conciliation Act (A & C Act), 1996.

#### Brief Facts

National Highways Authority of India (NHAI) had raised a claim before the arbitrators stating that under the variation clause 51 and 52 of General Conditions of Contract (GCC of FIDIC) read with Conditions of Particular application (COPA), the Engineer appointed under contract had powers to value the variation. The award as passed by the arbitrators rejected the claim of NHAI. Even the objections under Sec 34 of A & C Act as filed by NHAI were dismissed by the Ld. Single Judge of Delhi High Court stating that the view of the arbitrators is a plausible view.

The order of Ld. Single Judge and the award passed by the arbitrators were under challenge in this appeal.

#### Point(s) of Law

1. Scope of interference by Court in an award passed by the arbitral tribunal in respect of objections filed under the head “public policy of India” under Section 34 (2) (b) (ii) of the A & C Act, 1996.

An award passed by the arbitral tribunal can be set aside on the ground of being opposed to public policy of India under Section 34 (2) (b) (ii) of the A & C Act, 1996 being unfair, fundamentally flawed and inequitable and such as to shock the Court’s conscience if the interpretation of the contractual terms advanced by the learned Arbitral Tribunal:

i. is an interpretation which cannot be accepted as a

plausible interpretation;

ii. is unreasonable and wholly implausible interpretation, which no reasonable person could advance and the illegality committed by the Tribunal while interpreting the contractual terms is certainly not trivial;

iii. goes to the root of the matter as the said interpretation forms the bedrock of the impugned award;

iv. interpretation adopted by the Tribunal goes contrary to the express language used by the parties in their contract and

v. is in complete ignorance of, and in the teeth of the plain language of the Contract as found in Clauses of the Contract in issue.

#### 2. Rules of interpretation of Contracts

i. First General Rule of Interpretation from ‘Odgers’ on “Construction of Deeds and Statutes”. “The meaning of the document or of a particular part of it is therefore to be sought for in the document itself”.

ii. Principle expressed in the maxim ‘ut res magis valeat quam pereat’- If there be admissible two constructions of a document, one of which will give effect to all the clauses therein while the other will render one or more of them nugatory, it is the former that should be adopted.

iii. Interpretation should be able to withstand the test of reasonableness in all fact situations and not lead to unreasonable or inequitable results in some situations. The interpretation of the contractual term cannot change merely because the fact situation may change. It should have the same interpretation and meaning, though it may produce different results in different fact situations.

#### Decision

Based on the aforesaid points of law, the Court came to the conclusion that the interpretation of the contractual terms advanced by the Ld. Arbitral Tribunal and that accepted by the Ld. Single Judge is an interpretation which cannot be accepted as a plausible interpretation.

The Court held that the interpretation advanced by the Tribunal is in complete ignorance of, and in the teeth of the plain language of the Contract as found in Clauses of the Contract in issue. The impugned award was, thus held to be “opposed to public policy of India”.

The Hon’ble Court held the approach of the Tribunal to be fundamentally flawed and set aside the impugned award and order of the Ld. Single Judge.

The Hon’ble Division Bench set aside the impugned order passed by the Ld. Single Judge as well as the award passed by the Arbitral Tribunal and further imposed a cost of Rs. 50,000 on the Contractor.



# COURTROOM

## Case 2

### Larsen & Toubro Limited vs NHAI

Case No. : OMP No. 514 of 2009

Court: Single Judge of the High Court of Delhi at New Delhi in a petition under Section 34 of the A & C Act

#### Brief Facts

Larsen & Toubro Limited, the Contractor had raised several claims against NHAI before the arbitrator on various counts. In the award, some of the claims were allowed while the others were rejected. Against the rejected claims, the Contractor filed the objections under Sec 34 of A & C Act, 1996.

#### Point(s) of Law

1. Scope of interference by Court in an award passed by the arbitral tribunal in respect of objections filed under the head “public policy of India” under Section 34 (2) (b) (ii) of the A & C Act, 1996.

i. An award passed by the arbitral tribunal cannot be set aside on the ground of being opposed to public policy of India under Section 34 (2) (b) (ii) of the A & C Act, 1996 if the interpretation of clauses by the arbitrators is a plausible view.

ii. Finding of fact by the arbitrators cannot be subject matter of challenge under Sec 34 of A & C Act and cannot be investigated by the Court.

#### Decision

Discussing each of the claims and considering the stand of S & P on behalf of NHAI, the Hon’ble Court held the interpretation of clauses by the arbitrators not only to be a plausible view but the only correct interpretation and thus, dismissed the petition.

It was further held that finding of fact by the arbitrators cannot be subject matter of challenge under Sec 34 of A & C Act and cannot be investigated by the Court. Not finding any perversity in the award or anything to shock judicial conscience, the Hon’ble Court dismissed the petition.

## Case 3

### Backbone Tarmat–NG (JV) vs NHAI

Case No. : OMP No. 258 of 2005

Court: Single Judge of the High Court of Delhi at New Delhi in a petition under Section 34 of the A & C Act, 1996

#### Brief Facts

Backbone Tarmat–NG (JV), the Contractor had raised a claim against NHAI before the arbitrator based on the interpretation of an item in Bill of Quantities read with other terms of the contract. The arbitrators rejected the award stating that the claim as raised was not made out. Against the said rejection, the Contractor filed the objections under Section 34 of A & C Act.

#### Point(s) of Law

1. Scope of interference by Court in an award passed by the arbitral tribunal in respect of objections filed under the head “public policy of India” under Section 34 (2) (b) (ii) of the A & C Act, 1996.

i. An award passed by the arbitral tribunal cannot be set aside on the ground of being opposed to public policy of India under Section 34 (2) (b) (ii) of the A & C Act, 1996 unless it is perverse or contrary to the terms of contract.

ii. Construction of a contract is within the jurisdiction of the arbitrators.

iii Interpretation of a contract is a matter for arbitrators to determine even if it amounts to a question of law.

#### Decision

It was held by the Hon’ble Court that the interpretation as given by the arbitrators cannot certainly be said to be one that is perverse or contrary to the terms of contract. The Hon’ble Court, thus dismissed the petition under Section 34 of A & C Act, 1996.



MANJU MOHOTRA

### Corporate Social Responsibility Credits for Companies

Companies may soon be able to trade in Corporate Social Responsibility (CSR) credits, akin to trading in Certified Emission Reductions (CERs) or carbon credits. The companies would have to get certification for their CSR activities from a government body and earn credits. The credits could then be traded in a CSR credit exchange. The Government has roped FICCI into the CSR credits project and has asked the Indian Institute of Corporate Affairs to undertake a study on the scope of CSR credit trading. —Business Line

### FDI Guidelines to cover Limited Liability Partnerships

The government is working to bring limited liability partnerships (LLPs) within the scope of foreign direct investment (FDI) guidelines. This move will facilitate the inflow of overseas capital into LLPs. The Ministry of Corporate Affairs, which administers the LLP Act, and the Department of Industrial Policy and Promotion which administers FDI policy, are working to amend FDI guidelines. The rule change is expected to happen in a few months. Extending the FDI norms to LLPs is expected to give rise to large partnership firms with foreign investment, particularly in the services sector. —Economic Times

### Non-Banking Financial Companies seek Exemption from Minimum Alternate Tax

Non-banking financial companies (NBFCs) have sought exemption from minimum alternate tax (MAT) under the proposed direct tax code. The companies have told the Ministry of Finance about their reservations on the code. NBFCs have argued that the 2 per cent MAT on gross assets that the code proposes will be a ‘substantial drain’ on post-tax profits of NBFCs. —Business Standard

### Listed or not, Governance Code for all Firms

The Ministry of Corporate Affairs in India is set to introduce a governance code for unlisted companies on the lines of the one for listed firms to encourage more companies to list on the stock exchanges. The proposed Companies Bill 2009 (now pending with the Parliamentary Standing Committee) may see unlisted entities being asked to follow specific norms of governance similar to market regulator Securities and Exchange Board of India’s (SEBI) code on corporate governance for listed companies. Data shared by the Ministry showed that out of over 700,000 companies operating in the country, only 6,000 are listed on the National Stock Exchange or the Bombay Stock Exchange.

—Economic Times



## APPOINTED

### Mr Ravi Singhania appointed to Strategic Communications Committee of TerraLex

TerraLex—the much celebrated global network of business lawyers with more than 155 top independent law firms located in over a 100 countries—has appointed Mr Ravi Singhania, the Managing Partner of Singhania and Partners (S & P), to its prestigious Strategic Communications Committee.

Welcoming Mr Singhania to the high-powered committee, the Chairman of TerraLex, Mr Charles E. McCallum, averred that Mr Singhania's excellent legal knowledge and communication skills would be a major asset.—AAKANKSHA AGARWAL

## ON BOARD

### IDBI Bank takes S & P on board as Lenders' Legal Counsel for loan to JSW Energy

IDBI Bank has designated S&P as the Lenders' Legal Counsel for its corporate loan to JSW Energy Ltd. (JSWEL). JSWEL is a group company of Jindal South West (JSW) group headed by Mr. Sajjan Jindal. Other companies of the JSW group include the JSW Steel Limited, Jindal South West Mining Limited, JSW Port, Jindal Praxair Oxygen Company Limited (JPOCL), and several investment companies.—OP SINGAL



## APPOINTED

### Legal Counsel to Ministry of Road Transport and Highways

S & P has been designated as the legal counsel to Ministry of Road Transport and Highways for the development of two-lanes on selected National Highway sections (20 projects) through Public-Private Partnership on Design, Build, Finance, Operate and Transfer (DBFOT) basis. The cost of each project could vary from Rs. 1000 million to Rs. 10000 million.

The mandate requires S & P to draft and review the concession agreement in light of the model concession agreement; arrange the bid documents, i.e., request for qualification (RfQ) and request for proposal (RfP) besides several other related documents.—DIPAK RAO

## DESIGNATED

### Legal Counsel to Rajasthan Rajya Vidyut Prasaran Nigam Ltd

S & P has been designated legal counsel to Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPL) for the procurement and purchase of a 70 MW lignite based thermal power plant. Linked to the Gurha West mines in Bikaner, Rajasthan, under tariff based bidding guidelines issued by the Government of India, the project is in consortium with the Power Finance Corporation.

The mandate requires S & P to advise the client on legal and regulatory aspects of the project in terms of compliance with the Electricity Act 2003, Central/State electricity regulatory acts; drafting of documents like RfQ/RfP, Power Purchase Agreements, Fuel Supply Agreements, Shareholders Agreement, due diligence of bidders' credentials and transfer of the special purpose vehicle to the selected developers.—SUNIL KUMAR



## VACATED

### Karnataka High Court vacates injunction order against NHAI

S & P represented the NHAI successfully in Karnataka High Court against an injunction order passed by the Civil Court, Bangalore, for taking possession of the land acquired by NHAI under the National Highway Act. The lower court had passed the injunction order keeping in view the religious and personal sentiments of the landowner. The Hon'ble High Court allowed the appeal on merits and vacated the injunction order granted by the lower court. The judgment was dictated in the open court. —SHILPA SHAH

