Changing Dimensions of E-Commerce laws in India

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ABSTRACT: E-commerce denotes a method of conducting business through electronic means. Such electronic means include 'click & buy' methods using computers as well as 'm-commerce' which make use of various mobile devices or smart phones. This term takes into account not just the act of purchasing goods and availing services through an online platform but also all other activities which are associated with any transaction such as, Delivery, Payment facilitation, Supply chain and service management. It was in early 1979 that an UK entrepreneur Michael Aldrich connected his computer to his phone line and 26-inch tube TV in a Sussex Industrial Estate and activated a simple program named "Teleshopping". In India it was in 1995 that the Govt. decided to allow Internet for commercial purpose thereby opening the business world for E-commerce. E-commerce provides multiple benefits to the consumers in form of availability of goods at lower cost, wider choice and saves time. The general category of ecommerce can be broken down into two parts: E-Merchandise & E-finance. As the activities in E-commerce related aspects are increasing day by day so is the various offences related directly and indirectly to it. The legal framework of E-commerce in India is governed by the Information Technology Act 2000, The Indian Contract Act, and the Indian Penal Code, etc.This paper is an attempt to analyse the changing dimensions of E-commerce law in India.It is based on the argument that there is immediate need to have a codified law on E-commerce in India.

I. INTRODUCTION

E-commerce has clearly become an inevitable part of our society. Today E commerce has become an integral part of everyday life. E-commerce is the primary way through which the modern consumer make purchase. The World Wide Web has become an inevitable part in our daily lives. Accessibility to E-commerce platform is not a privilege but rather a necessity for people, particularly peoples who are staying in urban areas. Due to fast adoption of internet enabled devices like Smartphone and Tablets, we have seen an unparalleled growth in E-commerce. Thus E-Commerce is the buying and selling activities of the goods and services through online, including the transactions of business to business (B2B) and Business to customers (B2C) as well as paperless exchange plus extensive cost savings etc. Original means, the facilitation of commercial transactions through electronic, using technology such as electronic data interchange (EDI) and electronic fund transfer (EFT).

E-commerce in Indian society has become an integral part of everyday life. Accessibility to E-commerce platforms is not a privilege but rather a necessity for most people, particularly in the urban areas. Today the number of internet users in the world is close to 3 billion, out of this; India has a total of 259.14 million internet and broadband subscribers. This penetration of internet coupled with the increasing confidence of the internet users to purchase on line. This leads to an enormous growth in the E-commerce space, with an increasing number of customers registering on E-commerce websites and purchasing products through the use of mobile phones. India is in a prime position for the growth and development of the E-commerce sector.

The telecommunication technology has also completely changed the way of our living, communication methods, shopping etc. It has a huge impact on how we communicate with friends and relatives how we travel, how we access the information and the way we buy or sell products and services. The growth of E-commerce volumes in India is attracting the attention of players around the globe. E-commerce creates new opportunities for business it also creates new opportunities for education and academics. It appears that there is tremendous potential for providing E-business education.

Meaning of Ecommerce

E-commerce is also known as electronic commerce or internet commerce. It refers to the buying and selling of goods or services using the internet. The payment for the purchases made can even be using internet. In simple words any transaction that is conducted using the medium of

internet and network can be called as Ecommerce. Ecommerce has a long history. It was on August 11,1994 the first sale happened online. The ecommerce has started in America when a man sold a CD through his website to his friend. Net Market was the website used by him for completing the sale through online. Ecommerce has really started playing a vital role in our day to day lives. The consumers hardly go to stores for making purchases. Instead they are ordering for goods sitting at home itself. The introduction of smart phones has really accelerated the transactions conducted through internet

E-Commerce is defined by World Trade Organization (WTO) as, "e-commerce is the production, distribution, marketing, sales/delivery of goods and services by electronic means." The Organization for Economic Co-operation and Development (OECD) defines e-commerce as commercial transactions, involving both organizations and individuals, that are based upon the processing and transmission of digitized data, including text, sound and visuals images and that are carried out over open networks or closed networks that have gateway onto an open network.

Recent Trends in E-commerce: legal dimensions

In the recent past, the India Government has significantly liberalized foreign direct investment ("FDI") in India. As per the regulations formed under the Foreign Exchange Management Act, 1999, ("FEMA") FDI is allowed on an automatic basis, up to a certain limit or fully, in most sectors. The government of India has passed the Information and Technology Act to keep a check on the transactions carried on via the electronic media and to make the process of Ecommerce safe and reliable. The Act imposes heavy penalties and punishment on those who try to misuse this channel for personal benefit or to defraud others. The law has also established the authentication of the electronic records. The other focused areas are as under:

The aspect of Social Media

Now a day's social media enables the customers to choose the products according to their interest. Social media is also used as a medium for providing information about the product to the customers. Without any governing law this aspect is more disutilised then used in a positive manner.

Mobile Commerce

The purchase of goods using mobile phones and the transactions that are conducted through mobile phones has widely increased now a days. Easy accessibility to mobile phones and computers has resulted in an increase in the amount of shopping done using mobile phones and networks. The IT Act and the Indian Contract Act are finding it difficult to keep pace with the changing times.

Quick Service under E commerce

The ordering of the product, payment and delivery of the product will be completed in one Week. Online shopping is a type of shopping that helps the customers to reduce the amount of time required for purchasing. The aspect of quality control being compromised is the area of concern. Having limited options legally makes the things more complex.

Product Videos/Video Based Marketing

The effect that is created in the customers through videos will be long lasting. Customers can be easily motivated to purchase a product by providing them with interesting videos relating to the product. Videos are very effective in conveying the usage, comparison and specification of a product to the users. Once again having no specific law on the issue is adding to the complexities on the issue.

Use of Websites and Apps

More number of people is having access to mobile phones than laptops and computers. Smart phones are the most commonly used medium for accessing ecommerce website. The app based e commerce is compromising many legal issues.

Virtual Sales Stores market

Ecommerce companies are really trying to boost their sales by using popup, chat modules and other tools for sales people to convince customers to buy before they make a decision. This has resulted in many kinds of frauds that are very difficult to investigate also.

Security Issues in E commerce

People fear to make payment through online because of the security issues. Customers fear the loss of their credit card information while making payment through online.

Right to Privacy Issues

The customers are required to give their personal details such as name, address and mobile number for engaging in online buying. Most of the customers fear that because of these their privacy

issue will be affected with no legal guidelines the victim has very little options.

Technical Issues

As the entire process of ordering for goods and the payment is done using internet the accessibility to computer related technologies are needed. Technical issues can limit the customers from accessing computers and networks. The compexicity of the process makes it difficult to have any specific law on this issue.

Ignorance of Legal Issues

E commerce Company should take care of a number of legal formalities for establishing their business. The difficult procedures limit the business from making their presence online.

Sellers rights violations

In E-commerce, the existence of the wholesalers is at the greatest risk because the producer can easily ignore them and sell their products to the retailers and the consumers. Wholesalers can take the advantage of E-commerce in establishing contracts with reputed producers and linking their business with the online.
Besides the above mentioned issues some other aspects of concern are as under:

i). Payment Collection: Fraudulent charges, charge backs etc. all become merchant's responsibility and hence to be accounted for in the business model.

ii). Taxation:
Octroi, entry tax, GST and lots of state specific forms which accompany them. This can be confusing at times with lots of exceptions and special rules.

iii). Excessive pricing in e-commerce markets

Over the short term, excessive pricing is unlikely to be a major issue for e-commerce companies. Few e-commerce operations are currently making any profits, let alone excessive profits. Over the longer term, however, excessive pricing may become a serious concern for those e-commerce companies that develop dominant positions in their relevant markets.

iv). Collusion

One of the most widely held competition concerns relating to e-commerce is that it may facilitate such collusive behavior. There are a number of characteristics of e-commerce that might be expected to facilitate collusion, even in the absence of joint ventures and online market places. There is conflict of opinion about the applicability of Competition law on e-commerce.

v).Cyber crime in E-Commerce

Cyber crime is a key alarm that consumers have regarding e-commerce. No one wants to become a victim of cyber crime, which is a real hazard to e-commerce. Cyber crime is an e-crime. Cyber crime is a criminal act that involves computers and networks. Cyber crime includes criminal acts such as computer viruses, phishing, and denial of service attacks that cause e-commerce websites to lose revenues.

II. CONCLUSION

Ecommerce plays a vital role now a days. The number of people who are using e-commerce websites has widely increased. The introduction of smart phones has further accelerated the usage of ecommerce websites for purchasing. Ecommerce offers its customers a huge number of merits starting from wide comparability of the products, time saving, and quick delivery of products and offers discounts to the customers. Internet and smart phones has really changed the way we make purchases. It is further clearer that the number of people who are accessing ecommerce websites for their purchase will further increase in future. .An in-depth understanding of the legal regime and the possible issues that an E-commerce business would face coupled with effective risk management strategies has been the need of the hour for of E-commerce businesses to thrive in this industry. Intellectual Property Rights (IPR) issues in E-commerce transactions have taken a new form with users finding loop holes to not only easily duplicate material but also mislead other users. Hence, much more IPR is needs to effectively regulate tangled web. The development of educational standards has enabled a great demand in the market. The powerful influence of various social media tools like Facebook allows consumers to organize their favorite items and segment it into them and collections to share with others..With the increase in small and medium enterprises, foreign direct investment, multinational companies, creating millions new jobs, a new generation of globally minded consumers. With growing job opportunities, customers are willingly able to pay for the products online.

The rapid pace of e-commerce development has generally left the legal system struggling to keep up and gasping for breath. In much the same way as companies doing e-commerce must invent new business procedures and rules the legal system is trying to adapt existing laws to fit new settings. In the midst of this legal turmoil, India is one of the few countries across the globe that has enacted e-commerce legislation. However, much more is needed to effectively

regulate the tangled web. Effective risk management strategies coupled with adequate legal documentation will go a long way in protecting e-commerce companies. The role of government should be to provide a legal framework for e-commerce so that while domestic and international trade are allowed to expand their horizons. The growth, development and role of e-commerce are appreciable level in India. If it will expand further in all aspects definitely India will capture a primary place in technology and able to compete with other countries to increase the status.

REFERENCES

[1]. *Abhijit Mitra"E-Commerce in India-A review", International Journal of Marketing, Financial servicesand Management Research, 2013.

[2]. *Ainin, S. (2000). Status of E-Commerce Application in Malaysia Information Technology for Development Journal, Vol. 9, 3 / 4, 153-161.

[3]. *Bhavya Malhotra "E-Business: Issues and Challengesin IndianPerspective", Global Journal of Business Management and Information Technology, 2014

[4]. *Dr. Anukrati Sharma "A study on E-commerce and Online Shopping: Issues and Influences",International Journal of Computer Engineering and Technology(IJCET), 2013

[5]. *Fahri, K., & Omar, K. (2001). Electronic Commerce Use in Small and Medium-Sized Enterprises in Towards the E-Society E-Commerce, E-business, E-Government, edited by Schmid, B, Stanoevska, K and Tschammer, V, Kluwer Publishing, Zurich, 329-340.

[6]. *Mr. Harjot Kaur and Mrs. Daljit Kaur"E-commerce in India -Challenges and Prospects", International Journal of Engineering andTechniques, 2015

[7]. *Muhammad Awais and Tanzila Samin "Advances SWOT Analysis of E-commerce",International Journal of Computer Science Issues, 2012.

[8]. *Nisha Chanana and Sangeeta Goele "Future of E-commerce in India", International Journal of computing and business research, 2012.

[9]. Runyan, Bruce, Katherine T. Smith, and L. Murphy Smith (2008), Implications of Web Assurance Services on ECommerce Accounting Forum, Vol. 32: 46-61.

[10]. *Sarbapriya Ray"Emerging Trends of E-commerce in India: Some Crucial Issues Prospects and Challenges",Journal of Computer Engineering and Intelligent Systems2011

[11]. Smith, P.R., & Chaffey,D.(2005). E-marketing Excellence: at the Heart of E-business, 2nd edn. Butterworth Heinemann Elsevier, Oxford.

[12]. *Tryambak Hiwarkar "E-commerceimpact on Indian Market: A Survey on social impact", International Journal of Advanced Research in Computer Engineering and Technology, 2013.

[13]. *Turban, E., Lee, J., King, D., & Chung, H. (2002). Electronic commerce: A managerial perspective, NJ,Prentice Hall, P4.

[14]. *Zwass,V.(1998). Structure and Macro-Level Impacts of Electronic Commerce, CA: Saga Publication

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