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Merger Strategy and Detailed Study: With Reference to Legal Framework

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Abstract: *One of the most crucial motives of merger and acquisition can be seen as growth. Companies who are into this are seeking to expand and are faced with the choice of organic growth or of M&A. It's not easy to fetch growth internally as it is an uncertain process that can also take a longer time. The growth which the company is seeking through M&A will be rapid though, it may come with certain uncertainties too. This gives the space to the company so that they can grow within their industry or if in case they can also expand and take the business outside the category for seeking the next step of revenue and diversification. When it comes to finance, diversification is a very cluttered topic. Therefore, if a company is seeking to expand within the industry it can go for internal growth by many means that are acceptable.*

I. INTRODUCTION

A company has many shades of opportunity which remain open for a specific period of time, the slow internal growth can be advantageous that a company has easily dissipated over the time. Moreover, the company also has certain advantages that get refused away by the action of the competitors. It could also be possible that a company has developed a new product and has a first mover advantage over the competitors. Whenever a company is looking forward to facilitate the growth through M&A and wants to enlarge itself in another geographic region it could be that if the companies market is in one part of the country and it wants to expand in the other region but if it already is a national company and seeking to tap the market of the other countries as well such as if the company that is existing in US wants to expand itself in India. In these examples it can be a quicker and less risky process to expand geographically through acquisitions rather than relying on internal development. In case of a true International expansion where the companies need to be successful in the new Geographic market and get away from the nuances of a new market internal expansion will be slower and will be more difficult there for the merger, acquisition, strategic Alliance, joint venture. Maybe, the fastest and the lowest risk alternative.

It Is in utmost pressure for the corporate manager to demonstrate a successful growth throughout the process when the company has already achieved growth. This is particularly true, however it is clearly based on the demand of the product and the services that the industry provides that determines how difficult or how easy it is to continue on the graph of growth. Whenever you receive the slow demand of any kind of service and product that you are selling, it becomes difficult to continue the slab of growth. Therefore, whenever any kind of situation like these happens the merger and acquisition is the perfect way to jump towards the growth again. Acquisition not only lead to the revenue generation or maximization but also improves the synergistic gains that leads to a profitable business. Unfortunately, it is easy to generate sales by adding the revenue of acquisition that is targeted than it is to improve the profitability of the overall enterprise. This kind of strategy also consecrates profits and returns to the shareholder as well.

It Is a major goal of a company to receive the broader achievement however the person who is managing needs to make assurance of the growth is one that generates good returns for the shareholders as well. M&A has become a very popular strategy for the companies who are looking to expand and grow their business. This process can take various forms like consolidations, merger, acquisitions and if they are done right they act as a catalyst for any kind of business which will provide new access to the talent, technology and the market. It helps the company to reach height on their economy scale by the combination of companies and its resources. They can get over cost saving related to areas, distribution and production which will result in the profitability and the good competitive advantage in the Marketplace. They also provide a new landscape of the market to the customer. For instance, If a company is acquiring a competitor

to gain a group in a particular geographical region. A company can also acquired the business with the complimentary product line for expansion of its offering and reaching the new customer.
M&A also give access to the intellectual property and the new technology by acquiring the company with the cutting edge technology or any patent intellectual properties the business can hold a significant grip on the competitive advantage of the industry. It can also prove to be a powerful tool if achieved with the talented workforce which will be particularly valuable for the shortage of skilled labor. You only need to be attentive and must be taking informed decisions with a well planned integration strategy. Failure to do so can result in certain disruption. Therefore, it on the whole proves as a powerful catalyst for the successful business as it provides access to new customers, Technology, talent and market which also help in scaling the economy. However, it turns out to be essential to proceed with caution and conduct due diligence to avoid risk and maximize benefit.
The Indian limited company which has an Indian liability merged in the real image LLP V. Qube cinema technologies private limited case. Both the petitioner of the companies got involved in the audio production and the video industry. The main problem that arise was whether the law of India permits the Indian limited liability firms for legitimate merger with the Indian private limited enterprises
Therefore the NCLT of Chennai bench stressed the legislative spirit of the 2008 act of the LLP and the 2013 act of the company that rules about no specific legal prohibition against any such merger.

STRATEGY BEHIND M&A

There are diverse situations where merger and acquisition plays a better role. If you get the opportunity to dive deeper into the market taking at the size of action that can be a competitive move for much bigger and faster growth than you mind grab it and work in the same line of strategy. If you are a company who is looking for expansion then adopting a perfect M&A strategy helps you diversify the service and the product and to reach the new market expansion of your revenue. If you are looking to integrate 2 entities together there will also be some challenges that could be faced by you. Hence, it turns out to be important to understand merger and acquisition.

Vertical M&A Strategy

When there are different supply chains in which two or more companies get involved for the collaboration and production of a service, it is called a vertical merger and acquisition strategy. Better quality control, lowering the operation cost, higher profit and increased operational efficiency are some of the benefits that this kind of merger gives to the company. When it comes to the negative challenges the vertical strategy gives way to the increased bureaucratic cost, contrasting company culture and the potential to lose key team members as the roles are combined.

Horizontal M&A strategy

Whenever the two businesses operate with the same industry and come together for the elimination of the competition it comes under the purview of horizontal merger strategy. It also comes with benefits that involve larger market reach, less competition, increased revenue and the diversification of the product and the service. The challenges of horizontal merger involves less business mobility, providing less value to the customer and less control over the decision making. Due to the increase of the access to the new market and the diversification of services and goods the horizontal merger gives rise to the revenue. It totally depends on the choice of the partner that you can experience more regulatory scrutiny which would also limit ability to move your business and to make the decision.

Conglomerate M&A Strategy

When the two companies merge together that have an entirely diverse business activity it is known as a conglomerate strategy of merger. In this type of strategy the company gets to have a larger market share with the higher revenue and business diversification but it also gets challenging at some point that results in the opposite workplace culture less efficiency and a change in the core value of the business.
Workplace clashes can also be witnessed and this type of merger gives you a shift from your business values and also results in the friction from your state and holder and the consumer.

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Market Extension M&A Strategy

These are the two entities which come together and have the same type of product and services. It clearly helps to create a larger client base and to extend potentially on the international and national level. It is not really important that all the time this kind of merger will give you the benefit therefore this requires a higher capital, more business responsibility and potential for debt to a accure which can cause the nuisance in the business.

This kind of merger increases the market reach and gives access to a bigger clientele even on the global scale. Nevertheless, it lists the growth that comes in an increased way and also increases responsibility as now you get to manage the higher capital and need a debt accumulation.

Product Extension M&A Strategy

When the two companies which are involved in the same kind of market providing the same service and the product that are having the same kind of consumer this whole strategic process is called a product extension merger and acquisition strategy.

In this kind of merger there are certain things that need to be kept in mind like we need to define the object, study the market with the proper analysis and the integration strategy and the synergies need to be formed along with the post merger integration and monetary. Therefore, these steps will help in the adaptation of a strategic approach where the companies will develop and have an effective product extension which will drive growth, enhance the competitiveness and create a value for the stakeholder.

OPERATION SYNERGY

The operation Synergy in terms of merger and acquisition is all kinds of the strategic benefit that will be realized in case when the two companies combine the operation with aims to create the value that is much greater in terms of individual company with the Optimisation process, complementary strength and the reduction of cost.

Revenue Enhancement: This kind of operational Synergy turns out to be more important as it might be difficult to achieve the reduction of cost synergy. Therefore, it comes in the context with the new opportunity which can be presented with the result of the combination coming from the two companies that have been merged. These are coming from the opportunities of the market through the cross marketing of the product partner coming with a broader purview each of the company will be able to sell more product and services. The cross mark getting technique also gives the potential and domination for the enhancement of the revenue through each merger partner which also enables the company for the expansion of its revenue in a quicker way. Talking about the ways the revenue enhancing synergies can also be achieved by the brief description which can come from the company of a major brand that lends the reputation to the upcoming product line of a merger partner. It can also arise from the company that has a great network distribution merging with a form which has a great potential but questionable ability to get them to the market even before the competitors tend to react and seize the opportunity.

This kind of synergy comes up with various opportunities that help in the growth of revenue and the expansion of the market through the cross selling products and the services or the access to a new customer segment. Therefore by combining the sale through the distribution channel the companies could also capitalize on the complementary strength for increasing the market share and the sale. This can also be highlighted in terms of a merger plan where the revenue enhancement based on the potential can be discussed and defined.

Cost Reduction Synergy: it is one of the basic objective of the operation synergy to achieve the cost saving by the elimination of the functions that are redundant by streamlining the operation and consolidating the resources which can be an overhead expenses like in the administrative cost, infrastructure or any other real estate through the economies of scale. The planner of the merger often looks for the cost reduction Synergy as a main source. Therefore, it clearly results in the sale economy decreasing per unit cost with the result of an increase in the size or scale of the company. The firms which deal in the segment of advertising tend to operate at a higher unit for a low level of input. As the cost that is fixed is spread out over a low output level.

DIVERSIFICATION

One of the main reasons behind the management is the diversified expansion of the desire to enter the industry and make profit by acquiring another form from the Industry that is still existing. If the company which is parent has already reached at the stage of maturity from bearing all the competitive pressure then that industry is precluded with the possibility of raising prices to the level that the extra normal profit can be enjoyed.

One of the major hurdles that is faced by the company or the form is that day at times encounter to seek and expand by entering themselves into the industry which offers good opportunity but is lacking in assurance to the future. Industries which are already making profit may or may not be profitable in the future. The competitive pressure serves as the movement towards a long term equalization of rate in the industry. Though it clearly does not give way that the rate of return of all the industries at the time are also equal to the force of the competition which has already moved, many of the industries are giving equal returns which are offset by the opening forces like the industrial development. The above average return Industries do not have any kind of barrier for entry declining returns until they reach the cross industry average. Talking about the economic theory which gives a long run only to the industries that are also difficult to enter giving the above average returns this simply implies that the diversification program for the entry into the profitable industry is also successful for the long run.

If you try to enter into the Industry that already has a low barrier, expanding companies will be forced to compete against their entrants who are already attracted towards the temporary above average returns and the low barrier.

Montana Power: Failed Corporate Transformation

This story is well known which existed for the decade as a stable but slow growth of utility and power. It was the time of 1990 when the management of this company began with the process of transforming it into a telecommunication company and the end result was not at all good. The company was founded in 1912 and It moved oil and gas in 1930 expanding it with coal also in 1950. Therefore initially it entered into telecommunication business in 1980 and took the advantage of the breakup. Of AT&T.

In February 2201 the company sold off its boring power utility business for Dollar 1.3 billion and invested the proceeds in the flying telecommunication business called touch America. The energy distribution business was also sold to the Northwest Corporation for a massive amount in cash plus the assumption of 488 million dollars in debt. The pan Canadian petroleum Limited in August 2000 also agreed to purchase the Montana power oil and gas business for $ 475 billion. Therefore the sequisition increased the pan canadian oil field capacity and indicated that the acute field had already resolved for 550 billion cubic feet of gas and 20 million barrels of crude oil. Therefore the touch America also entered into a deal at a later part to buy the queset.

Touch America became a huge investor in the network extension and fiber laying throughout the 1990 and early 2000 and many billion dollars were spent on laying the optical fiber cable as a non telecom company and telecom company expanded.

OTHER ECONOMIC MOTIVES

Other economic reasons for the merger and acquisition are the vertical and horizontal integration which in addition to the advantage of the diversification and economies of sale. Combining businesses that are in the same stage of production is known as horizontal integration. For instance the horizontal combination in a medical device industry was $24 billion Becton Dickinson Company paid to acquire CR Bard in 2017. Purchase of the craftsman by Stanley black and decker in the same year was another. Vertical integration on other hand refers to the merger or acquisition of the companies that have a buyer and relationship.

The combined firm's market strength may be significantly impacted by horizontal combinations that boost market share. If market power is truly increased are based on the size of the combining companies and the degree of industry rivalry. According to economic theory, industries fall into one of two extreme market types. Pure competition, or a market with lots of consumers and sellers, perfect knowledge, and uniform, undifferentiated items, is at one end of this scale. Because of these circumstances, every seller is a price taker who has no say over the market price. A monopoly, or single-seller industry, is at the opposite end of the industry spectrum.

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Horizontal Integration

When two rival businesses combine, they might be able to realise certain economies of scale since they both understand each other's industries and can identify areas where unnecessary expenses can be cut. In contrast to nonhorizontal transactions like diversifications, they should also have a solid understanding of the combination's influence on the product market. Albert Sheen looked through the Consumer Reports product quality reports from 1980 to 2009.50 He discovered that the calibre of two rival brands converges when they combine. The products' pricing decreased even though the combined brands' general quality remained mostly unchanged. This seems to suggest that a horizontal integration like this could result in actual cost-related efficiencies. The combined firm's market strength may be significantly impacted by horizontal combinations that boost market share. The degree of industry competition and the size of the merging companies determine whether market power truly rises. According to economic theory, there are two extreme types of market structures for industries. Pure competition, or a market with lots of consumers and sellers, perfect knowledge, and uniform, undifferentiated items, is at one end of this scale.

Because of these circumstances, every seller is a price taker who has no control over the market price. Monopoly, or an industry with just one seller, is at the other end of the industry range. The capacity to choose the price-output combination that optimises profits belongs to the monopolist. Naturally, just because the monopolist is shielded from direct competition forces does not mean that it will make money. Depending on the size of its costs in relation to revenues at the ideal "profit-maximizing" price-output combination, the monopolist may or may not turn a profit.

Ponzi rivalry exists between these two extremes of the industry structure spectrum.

Market Power

Market power, sometimes known as monopolistic power, is the capacity to establish and uphold prices above levels of competition. Competitive companies establish prices equal to marginal cost because, over the long term, sellers in a competitive industry get only a normal return and do not earn economic rent. The ability to set prices above marginal costs is referred to as market power. The Lerner index, created by Abba Lerner, gauges the size of the discrepancy between price and marginal cost in relation to price. However, even having a good price-to-marginal cost differential does not guarantee. Market share, entry hurdles, and product differentiation are the three main elements of market power. A business can grow its market share by integrating horizontally. It's possible that a company won't be able to raise its price much above marginal cost even in the event of a big increase in market share due to a lack of significant product differentiation or entry barriers. Raising prices above marginal costs may only draw new competitors who will force prices down towards marginal costs if a sector has strong entry barriers. There might be fierce rivalry even in industries that have gotten increasingly concentrated. Furthermore, if earnings and prices increase too much, new competitors may enter such competitive market.

Horizontal Integration, Consolidation and Roll up Acquisition

Certain industries had a consolidation throughout the 1990s. In several of these transactions, bigger businesses acquired smaller competitors one after the other. Then, the purchased businesses were merged to form an ever-larger corporation. These agreements are often known as roll-up acquisitions. Though not as much as it was enamoured with Internet companies, the 1990s market enjoyed roll-ups. Consolidators were typically drawn to markets with a large number of relatively small competitors in a dispersed and unconsolidated industry. Numerous targets in these sectors, like those in the funeral home or bus transportation businesses, were closely held. One type of serial acquisition is the roll-up purchase. Dealmakers merge disparate sectors to create bigger, usually national enterprises. Serial buyers participate in a programme of acquisitions that may or may not entail consolidation. One business that made numerous M&As to boost sales and profits in the 1990s is Cisco. But rivals like Arista have begun to chip away at Cisco's market dominance in the switching industry in recent years. Another corporation that has significantly increased its position in its field through a pattern of serial M&As is Oracle. Although some of these organisations' success may have been attributed to M&As, serial acquirers have a worse than ideal track record. In fact, Aktas, de Bodt, and Roll demonstrate that the more deals a CEO and his or her company complete, the lower the returns they receive. Ismail offered additional support, analysing 16,221 takeovers between 1985 and 2004 and finding that single acquirers—that is, companies pursuing only one acquisition—performed better than multiple acquirers by 1.66%.62 When the market

euphoria and economic expansion of the 1990s ended, many of the roll-up deals collapsed, and some—like Coach USA, a company assembled by consolidator Simon Harter—were sold to other buyers while Westinghouse prospered.

DO DIVERSIFIED OR FOCUSSED FIRMS DO BETTER ACQUISITION

By observing the process of merger and acquisition announcement returns the stock market's reaction to the investment is clearly being captured to the extent with which these two announcements come as an unexpected, it clearly determined that whether the market perceive psychology to be value enhancing or destroying for the acquiring firm, the target from and the combined form conditionally makes a firm organizational form.

Because of the agency issues related to their intricate organization structure the diversified

Corporation are thought to make the inferior acquisition judgment than single segment firms. It has always been suggested that the diversification discount proves that the agency issues exist and the outway any diversity advantage. (Footnote: See Berger and Ofek (1995) and Lang and Stulz (1994) for early examples in the literature.) It is clearly a hypothesis that the managers of the diversified organization may transfer the cash and the acid from Division with the better future prospect to the division with the worst future prospect as a result of agency concern. This will prove in efficient use of the internal capital market of the diversified firm. (Footnote: See Berger and Ofek (1995) and Lang and Stulz (1994) for early examples in the literature).

However, there are reasons to believe that diversified firms may make better acquisition decisions. There is evidence in Maksimovic and Phillips (2001) that asset and firm sales are done by less productive sellers selling to more productive buyers. If diversified firms have developed expertise in creating synergies from operating multiple business units, they may be better able to create operating synergies from new acquisitions. Due to the fact that diversified firms have higher credit quality, they may provide greater financial synergies than focused firm acquirers if unconstrained diversified firms tend to acquire financially constrained target firms as in Campello (2002) and Billett and Mauer (2003). (Footnote: See also Stein (1997), Khanna and
Tice (2001), and Maksimovic and Phillips (2002).) Lastly, it is well known that the pay for CEOs of larger firms is higher than the pay for CEOs of smaller firms. Since diversified firms are on average larger firms, they may attract higher quality CEOs due to the higher pay.6 In support, Berry et al. (2006) find that diversified firm CEOs are more educated and are paid more when they are hired. Furthermore, Rose and Shepard (1997) show that the higher CEO pay for CEOs of diversified firms is due to firms paying more to attract and retain managers who have higher ability rather than powerful CEOs undertaking empire building activities to build larger firms with larger commensurate salaries. Hence, diversified firms may have smarter CEOs and top level managers who make better decisions. We discover that acquirers of diversified firms have substantially and profitably higher merger announcements than acquirers of specific segments of the market. Compared to market-adjusted announcement returns of single sector acquirers, the mean (median) of announcement returns to diversified acquirers is 1.5% (0.70%) greater.

When the standard controls for merger and acquisition announcement returns are taken into account, this difference, which is statistically significant, ranges from 0.9% to 1.1%.

There is a 1.6% (−0.60%) difference in the mean (median) market-adjusted announcement returns between targets of focused corporations and those of diversified acquirers. Compared to single segment firm acquirers, acquirers of diversified firms have substantially and profitably bigger combined merger gains (acquirer plus target). In comparison to combined firms with single sector acquirers, the mean (median) net value gain for diversified combined firms is $56 billion (11.6 billion) more. These results challenge the widespread belief that concentrated firms are better managed than diversified ones. We do not find evidence that merger announcement return differences between diversified and focused firms are driven by financial constraints of the target firm being alleviated by the acquisition. Bernanke and Gertler (1995) and Bernanke, Gertler, and Gilchrist (1996) show that credit constraints are tighter during recession periods than during non-recession periods. However, we find that differences in diversified versus focused firm acquirer target, and combined firm announcement returns occur during normal economic times but not during recessions. There is no indication that the acquisition-induced alleviation of the target firm's financial limitations accounts for the disparities in merger announcement returns between focused and diversified enterprises. Research by Bernanke and Gertler (1995) and Bernanke, Gertler, and Gilchrist (1996) demonstrates that lending restrictions are

more stringent during recessions than they are not. We do discover, however, that during regular economic times—but not during recessions—differences in combined firm announcement returns and diverse vs targeted firm acquirer targets.

THEORIES AND AGENDA BEHIND M&A

There are many conceptual frameworks and the reason why companies decide to engage or merge with corporate restructuring activity. There are also many theories that provide a snake peak to all the strategic rationale and the intention that drives M&A transactions. Talking about one of the most crucial motives behind merger is the pursuit that comes from synergy. It clearly means when the combined entity achieves greater value altogether that they could be done relying individually. Synergy can be achieved through various sources like revenue enhancement, shared capability, complementary resources and cost saving. The companies that are merging also need to work on the capitalization of the economy of sale which they will get from the production increase and other efficiency. Therefore by accumulating these resources and the facilities altogether the company tends to reduce the cost per unit and improve their profit. Merger is not only driven by the sales economy, rather it also comes as an intention to exploit the economy that clearly arises from the leverage of the capabilities that are being shared and the distribution channels across different lines of product and business unit which allow the company to diversify itself in terms of competitiveness and the revenue stream. Companies can also increase the power in the market and competitive advantage by being the best as it helps to expand themselves in the new market where they get to strengthen their position and negotiate in terms of better supplier, customer and lean with the dynamics of the industry. Mergers at times also occur to have a vertical integration where the companies combine with themselves at the different stages of the distribution or production. It clearly enhances the chain of supply and reduces the dependents on other external suppliers and distributors.

Horizontal integration whereas is one another crucial aspect where the company consolidates with the industry or market that is In the same segment. One of the most crucial motives behind the horizontal integration is the elimination of competition for achieving the scope and the scale. The companies also tend to have different kinds of strategic realignment which is an initiative that is clearly aimed for the repositioning of the company to achieve a growth that is long lasting. The financial engineering objective is also cannot be ignored like the optimisation of tax, the debt refinance, the capital restructuring for enhancing the shareholder value or to improve the financial performance.

The managers of firms have personal interests which drive or are diverse from those of other companies. This can be done by the CEO and the manager in order to prolong the tenure of their role they can also be motivated by a managerial goal to hold on to the generous benefits and the remuneration which are considered plenty in the US. In addition to the money they get from being The Big cheese they also receive financial compensation.

The forces of liberalization and globalization have already swapped the economy of India in the post-reform era that compel the corporate to restructure their business by adopting various strategies like takeover, amalgamation and Merger. The process of restructuring through merger and acquisition has already been a regular feature in developed and free nations like Japan, European Nation, UK and USA where 100% of mergers take place every year. Talking about India, it is a concept that is now like a fire or being reported every single day. The takeover and Merger of the multinational cooperate across the border have also become a very normal phenomena the acquisition and Merger gained acceptance and popularity from the maker of the policy, business Outlook and the consumer point of view even though such transaction result in the monopolistic condition the activist do not oppose them courts also have been seen a sympathetic towards merger as it is so evidence from the remarks of the supreme court in Hill Tomco merger case.

The major motivation of this unprecedented rise in merger and acquisition activity include the consolidation globalization in the product differentiation vertical integration growth and diversification tax advantage technological requirement etc in reality in the motor behind merger also go beyond these reasons motives are the benefits that are form perceive from merger and acquisition and hence act as a proper undertaking them with regard to these motive the existing literature highlight both exogenous and the forms specific factor in determining merger activity. These theories clearly comes up with the motive of merger that reflects the financial organization and the other strategic factor that drives the same creating a value for achievement of growth in this transactioning market condition.

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STUDIES CONDUCTED IN INDIA

When companies consolidate together it is known as Merger whereas the acquisition means taking over of the company. Both of these combine together to form a very crucial aspect of the corporate finance world. The strategy that Relies behind every merger and acquisition is generally when two distinct companies come together creating a value that will beat the stand of the individual whereas the main objective is always the increase of wealth, maximization of profit and exploring various growth opportunities. A deal is that every company has different ideas that are related to the target company. There are many legitimate ways that the company do to pursue and. The most common method of valuation is to seek and compare the companies of the industry but dealmakers execute a variety of the different methods and tools while assessing the target company.

There are many bonuses for the success potentially where the acquiring companies always pay a fixed amount of premium to the stock market in the value of the company that they are buying.

There are various studies that has happened in India which clearly analyzed the outcome, implication and the trend which merger and acquisition poses in the Indian market.

Talking about the overall trend and strategy that is followed by Indian merger clearly goes with the frequency, volume and the size of the merger that is happening over different sectors and different timelines. The economic condition, industry dynamic and regulatory changes as per the sentiment of the investor is also influenced by the merger activity. Their studies also pays heed to the mergers in the specific industry like the finance, Pharmaceutical, telecommunication manufacturing or energy. The researchers have also examined the specific factor which drives the merger competitive dynamics and impacts the consolidation on the industry and the stakeholder. Seeing the financial performance and the outcome of merger which includes the post and pre financial metrics, it is clearly the result of the performance that is given by the finance or the destruction of values in which the company's involved.

The implication and the practices which are imposed by the corporate governance in the context of acquisition or merger in India is also exploding as it is a very crucial aspect to examine in the decision making management transparency right of the shareholder at her ends to the regulatory guidelines and the disclosure practices during the process of merger. Regulatory environment is also being evaluated which governs the whole process which includes foreign investment regulation, competition law, norms of corporate governance or any kind of disclosure requirement. The cultural integration, workforce management and other regulatory compliance also falls under the integration challenges which needs to be seen of.

In terms of the cross border transaction the researcher analyzed the motives and the outcome that comes from the strategy as well as the other operational challenges which are faced by the Indian companies during the international merger and how it creates a wide impact on the stakeholder creditor regulator and other local communities. The culture of M&A has increased over the years when it comes to India and it has surely given a good blow to the liberalization of the Indian economy.

M&A TRENDS IN INDIA

The merger and acquisition in India is currently facing a steadiness and as per the reports and Inspite of many challenges geopolitically, India is the currently dealing with the market that is expected to slow down as there are many global challenges like the macroeconomics, regulatory scrutiny and high interest rate. The sector which is driven by the manufacturing segment is also looking forward to spur the merger activity and the industrial sector has also seen arise of 33% and 22% respectively in 2023 and 2022. SumeetSalwan who is a consultant In Deloitte India has already stated that the challenges coming globally with the high interest rate and uncertainty is expected to continue in the year 2024 as well. Whereas the Global merger and acquisition market turns to be soft for the Indian companies that continues to be strong in the economy domestically. The proactive initiative that is taken by the government for the clean energy is also expected to fuel up in the rise of merger and acquisition activity in the sector itself and the financial sector is also expected to drive by the large scale consolidation that will give way to many of the shift that is regulatory.

The merger in activity deal value is reduce to 136 billion from 186 billion in the year 2023 and the TMT continues to the top sector. The value of the cross border has already declined by 11% and the energy saving sector has also seen a sharp rise of 63% in 2023 as compared with that of 2022. 44% decline has been seen in the transport and construction

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sector in 2022 whereas 17% is being given by the medical and Pharma sector where the buyers are seeking for more expansion.

LAWS GOVERNING MERGER & ACQUISITION

Companies Act, 1956

The amalgamation and Merger is not defined anywhere in the Companies Act of 1956 therefore it can clearly be understood only by means of certain arrangement. Coming to the provision of Companies Act 1956 related to merger and amalgamation it is dealt in the seven sections that is Section 390 to 396 a. Section 390 is about the expression of the company it's arrangement and clearly explains about the unsecured creditor section 391 details the power for making the compromise or arrangement with the member and the creditor under section 392. The power of tribunal is substituted for Company Law boards by the Companies Act 2002. The provision that are based in regard of the restructure and amalgamation is contained under section 394 Whereas, section 395 lays down the duty and the power of the transferee company for acquiring the share of the shareholders who are dissenting from the scheme or contract that is approved by the majority.

Industries (Development and Regulation) Act, 1951 (IDRA, 1951)

This act provides for the development and the regulation of certain Industries. Chapter III C of this act contains the provision for the restructure of such a company where the management and the control of the industrial undertaking is taken over as per the direction of the central government. The probation of this act is restricted in terms of applicability when it comes to Merger the application of section 391 of the Companies Act initiates the proposal of merger which cannot be procedure with where the permission of High Court has been granted under section 18 FA of this act anyone to take over the management of individual under taking an application of Central Government for the purpose of running or restarting it. However the central government can also review the order on the request of the parties to proceed with the scheme of merger. There is no requirement to get a new license as a license of amalgamating companies treated adequately for amalgamated company since takeover of all assets includes a license also.

Income Tax Act, 1961

The Income Tax Act of 1961 is also one among those that regulates merger and acquisition. Section 2 (1b) of the Income Tax Act defines the term amalgamation in relation to other companies to main merger of one or more companies with another company or merger of two or more companies. This act is a courageous amalgamation in the public interest and includes not only merger of one or two companies but also give the scope for forming a new company.

The section 72 A, of the Income Tax Act deals with the benefit of amalgamation which was introduced by the finance act in the year 1977

In order to provide the incentive on the tax for facilitation of the amalgamation of the sick industrial undertaking which was considered as a very serious matter. This kind of merger gives the companies benefit to carry forward and to set off the losses which are being accumulated and are unabsorbed depreciation of the sick companies provided that some conditions are satisfied.

- That should be in amalgamation of the company that owns an industrial undertaking or a ship with another company.
- The company which has been amalgamated continues to hold three fourth in the asset value of the amalgamating company which is acquired in the result of amalgamation for 5 years from the date effective of amalgamation.
- The company which has been amalgamated continues the business of the amalgamating company for a period of five years.
- The company which has amalgamated fulfills other such conditions as prescribed by the rule 9 c for ensuring the revival of the business of the amalgamating company or for ensuring that amalgamation is just for general business purpose.

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The amortization of the expenses on the technical know how that is enjoyed by the amalgamating company is available to the company that has been amalgamated these expenses are allowed as an equal deduction over the term of 5 year and in case any of the Indian subsidiaries of these foreign company bring up the forward losses which are not lapsed in spite of change in the shareholding subject to certain conditions.

Foreign Exchange Regulation Act, 1973

FERA Act consolidates and amends the laws that regulates the type of payment which deals in the exchange of foreign securities, the transaction indirectly affect for the foreign exchange and the import and export for the conservation of foreign exchange resource of the country with the proper utilization in the interest of the development of the country.

Section 14 of the FERA act deals with the provision that regulates the export and the transfer of security. The permission of the RBI is also required under section 19(1)(d) of FERA, for the issue of any kind of security to a person who is a resident of outside India. According to merger the transferor of a company has to obtain permission before issuing the share in exchange of the shares held in the transferor company.

Monopolies and restrictive trade practices Act 1969

This is the Act that provides operation of the economic system which does not result in the economic power of concentration to the common prejudicial. This act came into existence for the prohibition of all the restrictive trade practices and the monopolistic that is with the matter connected therewith or the incidental thereto. The power of the Act which has been curtailed by the amendment made by MRTP act 1991.

Sick industrial companies special Provision Act of 1985

This act is made in the interest of the public and carries a special provision which is made with a view to secure the timely detection of sick companies owning industrial undertakings.

Determination by the board of expert was preventive and has a remedial and other measure which needs to be taken care of in respect to such companies and the expeditions enforcement of the measure that is so determined and for the matter connected therewith or incidental thereto.

If a company becomes a sick company, it is referred as BIFR for which its provision is late under Section 18 sanctioning its merger with a healthy company for the revival. The scheme that is sanctioned should be approved by the means of a special resolution through a shareholder of a healthy company. This Act also provides the provision for hearing the views of employees as well and particularly those who are a transferor of a sick company that may anticipate uncertainty on the merger and now the scheme one sanction will be binding upon them.

The Competition Act, 2002

The competition act is enacted for providing economic development of the country and for the establishment of a Commission that make sure to prevent the practices having adverse effect on competition for the promotion and sustainer of competition in market and to protect the interest of consumer and to ensure freedom of trade that is carried on by any other participants in the market.

This Act deals with the regulation of combination in order to prevent the anti-competitive practice or the abuse of the dominant position of an enterprise that really affects the free competition. This Act contains the prohibition against different combinations that are lightly to cause an adverse effect on the market competition and also provisions for requiring the prenotification of combination which is formed through merger amalgamation or acquisition. Mergers are considered as a legitimate means through which firms can grow very easily. Watching from the viewpoint of a policy of competition the horizontal merger usually focuses on the attention since they tend to be anti competitive. Merger can also lead to a bad outcome if the dominant enterprise is subsequently abusing the dominance. It can also be challenged if it reduces or harms the competition which is present in the market and adversely affects the welfare of the consumer.

ANTITRUST LAWS

While reviewing the merger and acquisition. The primary antitrust concern is whether the acquisition will significantly reduce the competition or not? Since the merger and acquisition activity is covered by the anti trust roles as potential

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anti competitive behavior at transaction may be allowed in the same way that for instance two companies agreeing to fix prices that would not be allowed.

The HSR Act (Hart-Scott-Rodino) establishes an app procedural standard where the parties must adhere to before closing on certain days and it was created to allow the agencies to assess specific mergers before they are finalized. Crucially the antitrust rules do not apply to impending mergers.

The Agencies will examine on how to deal with that may alter the market competitiveness without going into much detail and will there be any market power for the combined company? Is it able to understand to which stand price increases do it hinder creative thinking, what responses will the other competitors give and what harm will they suffer? Although the enhanced coordination during the M&A is undoubtedly required and advantages, the parties are not permitted to coordinate all of their action under the pretense of an impending merger according to the antitrust regulations. Alleged infractions may lead to drawn out and expensive inquiries, consent decrees outlining further behavior, monetary fines and even criminal penalties. Antitrust law plays a very important role for the regulation of acquisition and Merger to prevent the anti competitive practices that are being raised there force that are several impacts that this law make.

Prevention Of Monopoly

The anti-trust law helps in the prevention and the formation of the major monopolies as coming in. It also helps in prevention of the abuse whichh the market and its dominance has raised. Therefore in the context of M&A the regulators assess that the merger which has been proposed will result in the gain of the company and its consumer or not.

Review Process

In many of the jurisdictions the merger and acquisition transaction has to go beyond a certain threshold. Through many authorities that are being regulated by the anti trust. Therefore, the main potential of this authority is to examine the impact that merger will make in the market, the structure of the market, innovation, pricing and the Welfare of consumers.

Horizontal and Vertical Mergers

The antitrust law clearly segregates between the vertical and horizontal Merger. Vertical merger means when the company is in different stages of the supply chain. Whereas the word horizontal merger means that the consolidation of the companies operate in the similar market offering different similar products and services.

Market Definition

In the definition of market there is a huge ambit in this the antitrust authority and is responsible for analyzing the product which is relevant. Geographic market is also being examined here this determine the extent of the market overlapping between the firm that is being most, therefore there is a likelihood of the reduced competition price increase or other diminished consumer as a choice of result of merger.

Remedies and Condition

If for some reason the antitrust authorities come to a conclusion that the merger that has been proposed can be a harm. They may impose remedies or certain conditions that could mitigate the effect of it. Licensing agreement, business unit, price commitment and other behavioral restrictions come in this purview.

Enforcement and Global Coordination

The parties who are in this process are allowed to raise any concern that they are facing during the antitrust and the enforcement action. It Is a direct result to they can also block the transaction fine or other penalties for violating the laws. The antitrust laws in shorts at the market power is not abused and should not become anything detrimental to the competitors and the consumer.

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ROLE OF LEGAL PROFESSIONALS IN CORPORATE RESTRUCTURING

As there has been a huge complexity for making such deals and there is a great expertise required the vital role which is played by the lawyers of merger and acquisition cannot be denied as there is a very high pressure to make the arrangement for such financial set up to take place. These lawyer has been given a number of responsibilities while working through this and there are lot of meticulous detail which needs to be paid attention on. These lawyer act as an advisor, mediator, negotiator and drafter to execute the same.

Adviser: The M&Alawyer have got a very prominent role that is of being an advisor. They are required to carry a well prompt research on both the target and the acquirer company which will help them to analyse the liability and the acid that each party is having. There can also be a high level view in this. The advisory company shall share the updates which they require and the lawyers on the other hand needs to be carrying due diligence with all the legal compliance that helps them in the benefit of client with strategies and other process.

Mediator: Talking traditionally these lawyer are not mediators but they are always expected to have a good balance between the communication of the executive and the stakeholder. They are also allowed to analyze the data by the help of brokers, agents, banker or consultants which ensures them to have all the good things involved during position for the protection of the parties. They need to help during the resolution of dispute and other conflict that has been arised during the whole transaction.

Negotiator: they are welcome to develop the strategy of negotiation which clearly aligns the business and the goal of the client and the target. Therefore by preparing the relevant document of negotiation they can reach to a certain level.

Drafter: Drafter is a role which is very prominent as the lawyer are strictly kept to go through all the paper and complete the paper work that is involved during this process which may include the contract, registration, Applications by the government, opinions or other important document. They are asked to document that terms and condition which are like the closing condition, purchase agreement or the other representation.

Therefore the lawyers who are hired for the merger and acquisition process must have a good area of expecties and understanding of contract, corporate law,security law, tax law intellectual property antitrust law, employment law and other related. On the other hand its become it becomes very fundamental to hire a lawyer for ongoing the same process as there are many formal initiation of a transaction that they understand in a better way and they will also give valuable and trustworthy advice to carry out the business with due diligence and identify the opportunities and dress that will come forth.

LANDMARK ACQUISITION, MERGER AND TAKEOVER

One of the largest foreign purchased by an Indian Corporation occurred when the Tata Steel Limited (TSL) acquired Corpus group following the Purchase, TSL became the world's 5th largest producer of Steel Tata Steel. It now has access to corus robust European distribution network, thanks to the acquisition. On October 17,2006 Tata Steel made the first bid to purchase corus for 455 pence per share bringing the total transaction value to US $ 7.6 billion. On November 17, the CSN counter offered 475 pens for each Corus share.

Brazil's CSN announced its official counterbid for Corus at 515 pence per share in cash, 3% higher than Tata Steel's offer, just hours after the latter company increased its initial bid to 500 pence per share. On January 31, 2007, an auction was ultimately held. Following nine rounds of bidding, TSL was able to seal the acquisition with a final bid of 608 pence per share, which was about 34% more than the initial bid of 455 pence per Corus share. On April 2, 2007, the agreement (between Tata and Corus) was formally announced, with each common share valued at 608 pence in cash. Steel Giant from India For US$ 13.70 billion, Tata Steel Limited (TSL) ultimately purchased the European steel giant Corus Group Plc (Corus). Tata-Corus, the combined company, employed 84,000 workers worldwide in 45 different countries. As of early 2007, it ranked fifth in the world's steel producing capacity, with an annual production capacity of 27 million tonnes.

The Deal Synergy

Tata possessed self-sufficiency in raw material and was among the world's lowest cost steel producers. Corus was searching for sources of iron ore while battling to keep its production costs under control.

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Since Tata was a significant supplier to the Indian auto industry and had a robust retail and distribution network throughout South East Asia and India, there would be a potent mix of matured, high-quality, and affordable, high-growth markets.

Technology transfer and improved research and development capacities between the two value chain-specific enterprises.

The two organizations' cultures were a good fit because they both placed a strong emphasis on ethics and continuous improvement. For example, "The Corus Way," which is based on integrity, creating value in steel, customer focus, selective growth, and respect for people, is highly compatible.

Banking Sector Merger ICICI Limited

In essence, ICICI Limited was a development finance institution that offered Indian industry medium- or long-term project financing. It was established in 1955 at the behest of the World Bank, the Indian government, and industry leaders from India. It started off primarily concentrating on project finance, giving long-term funding to a range of industrial initiatives. It then expanded into venture capital financing, asset management for commercial banks, mutual fund management, internet stock trading, internet stock brokerage, home lending, and other areas.

ICICI Bank

The Indian financial organization ICICI Limited launched ICICI Bank as its wholly-owned subsidiary in 1994. Through an equity offering in the form of ADRs listed on the NYSE in fiscal 2000 and a public offering of shares in India in fiscal 1998, ICICI's shareholding in ICICI Bank was lowered to 46%.

RBI Announcement

In April 2001, the RBI declared that it will review applications from Development Financial Institutions looking to become banks.

The Merger

The managements of ICICI and ICICI Bank came to the conclusion that merging would be the best course of action from a strategic standpoint for both companies and would establish the best possible legal framework for the ICICI group's universal banking strategy after weighing several corporate structuring options against the backdrop of the developing competitive scenario in the Indian banking industry and the shift towards universal banking. Through the combined entity's access to low-cost deposits, increased potential for generating fee-based income, participation in the payments system, and provision of transaction-banking services, the merger would increase value for ICICI shareholders. Through a large capital base and scale of operations, easy access to ICICI's solid corporate relationships developed over five decades, entry into new business segments, higher market share in various business segments, particularly fee-based services, and access to ICICI and its subsidiaries' extensive talent pool, the merger would enhance value for ICICI Bank shareholders. The merger of ICICI and two of its wholly-owned retail finance subsidiaries, ICICI Personal Financial Services Limited and ICICI Capital Services Limited, with ICICI Bank was approved by the boards of directors of both organizations in October 2001. The merger received approval from the Reserve Bank of India in April 2002, the High Court of Judicature in Mumbai, the Gujarat High Court in March 2002, and the shareholders of ICICI and ICICI Bank in January 2002. Following the merger, the wholesale and retail banking businesses of the ICICI group were combined into one single organization for financing purposes.

Business Transfer of Piramal to Abbott

Slump sale means the transfer of one or more undertakings as a result of the sale, for a lump sum consideration, without values being assigned to the individual assets and liabilities. The acquisition of the domestic formulations business by Abbott Healthcare Private Limited ("AHPL"), an Indian subsidiary of Abbott Laboratories, USA ("Abbott Lab"), from Piramal

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Healthcare Limited ("PHL"). During May 2010 PHL declared the execution of definitive agreements with Abbott Lab for the sale of its Formulation Business to AHPL by way of a business transfer as a going concern. The acquisition of the Formulation Business was done for a total consideration of USD 3.72 billion. The assets transferred include PHL's manufacturing facilities at Baddi, Himachal Pradesh and rights to approximately 350 brands and trademarks. The transaction for sale of the Formulation Business was structured as a slump sale/Business Transfer under Section 293(1)(a) of the Companies Act pursuant to a Business Transfer Agreement dated May 21, 2010 entered into between PHL and AHPL. The said Business Transfer involves the transfer of all the assets and liabilities of the Formulation Business excluding cash and cash equivalents and any liability relating to indebtedness of the company, taxes, employee and other claims, environmental matters and any or potential litigation.
The Business Transfer has been undertaken for an all cash consideration of USD 3.72 billion. Out of the said amount USD 2.12 billion would be payable by AHPL to Piramal Healthcare on closing of the sale and a further USD 400 million payable upon each of the subsequent four anniversaries of the closing commencing in 2011. In the aforementioned business transfer, all of the Formulation Business's assets and liabilities are transferred, with the exception of cash and cash equivalents, as well as any obligations pertaining to the company's debt, taxes, employee and other claims, environmental issues, and any current or future legal disputes. A USD 3.72 billion all-cash consideration was paid for the business transfer. Of the aforementioned sum, USD 2.12 billion would be paid by AHPL to Piramal Healthcare at the time of the sale's conclusion, and an additional USD 400 million would be due on each of the four anniversaries of the closing, starting in 2011.

Bharti Zain Deal

An acquisition of a business or a division that is primarily financed with borrowed money is known as a leveraged buyout. To finance the acquisition, the acquirer turns to a mix of a sizable loan and a modest investment. The loan capital is obtained through a combination of bonds issued by public or private companies, as well as repayable bank facilities. As an alternative, the purchasing business may offer a Special Purpose Vehicle ("SPV") for sale as a 100% subsidiary with a low equity requirement. By using this equity, the SPV can raise much more money in debt in order to acquire the target business. When the debt is repaid, the purchasing firm might choose to combine with the SPV or use the assets of the target company as collateral to obtain the loan. The target company's cash flows will be used by the SPV to settle the debt. Leveraged buyouts are designed to enable businesses to make significant purchases without making big capital commitments. In 1995, Bharti began offering mobile services in Delhi, India, as the first step in its telecom services venture. Since then, there has been no turning back, and the group's flagship business, Bharti Airtel, has become one of the world's leading telecom firms and is ranked among the top five cellular providers.
Zain was the first mobile operator in the region, having been founded in Kuwait in 1983. It is a publicly traded company that provides mobile telecommunication and data services, as well as buying, operating, delivering, installing, managing, and maintaining mobile phones and paging systems in Kuwait and 21 other Middle Eastern and North African countries, along with its subsidiaries. Mobile Telecommunications Company Lebanon (MTC) SARL, Lebanon, and Sudanese Mobile Telephone (Zain) Company Limited, Sudan, are two of its fully owned subsidiaries. Wholly owned subsidiary of Zain that was based in the Netherlands and was in charge of the company's African operations. After being purchased by Zain in 2005, the business was rebranded as Zain International BV. It was formerly known as Celtel. Through Bharti Airtel Netherlands BV, Bharti Airtel has now obtained the same. Bharti Airtel declared in the first quarter of 2010 that it had reached an exclusive deal with Mobile Telecommunications Company KSC ("Zain") to acquire Zain Africa International BV ("Zain Africa") and consequently all of Zain's African operations, with the exception of those in Sudan and Morocco. With the acquisition, which valued at USD 10.7 billion, Bharti Airtel becomes the second-biggest operator in Africa and the seventh-largest mobile group globally in terms of customer connections. The transaction is the second largest in the Indian telecom market, after only the about USD 11.2 billion Vodafone Hutchison merger from 2007.
United Bank of India Limited V. United India Credit and Development Company Limited This is an application for the approval of an amalgamation plan and other related orders and directives made in accordance with sections 391, 392, 393, and 394 of the Companies Act, 1956. That the petitioner, United Bank of India Ltd., conducted banking operations in the Eastern part of India after being formed in 1918. With effect from December 18, 1950, three other banking

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companies—Comilla Banking Corporation Ltd., Comilla Union Bank Ltd., and Hooghly Bank Ltd.—were combined or merged with the petitioner bank in accordance with section 44A of the Banking Companies Act, 1949. It is evident from the company's memorandum of association that the petitioner, a bank, was founded primarily to conduct banking operations. Held, the necessary majority of the present and voting shareholders at the called statutory meeting have approved the amalgamation plan. The statutory majority was operating in good faith, and the amalgamation plan was one that petitioners' honest and knowledgeable shareholders could legitimately support. The opposition party did not appear to be acting in the best interests of the petitioners or shareholders as a whole.

The amalgamation scheme appears reasonable, feasible, and in the best interests of the shareholders present and voting in the meeting. The resolution was passed by a statutory majority, and there was substantial compliance with the statutory requirements of serving notice on shareholders and outlining statements as required under section 393 of 1956 Act. This was a well-known technique for reorganizing and reconstructing the business, and there was no wrongdoing on the part of the shareholders who approved the plan or the directors who were motivated by any evil intent, as some shareholders attempted to allege.

Aruna Dixit D/O late Y.D Dixit v State of Chhattisgarh

A bank got registered under Chhattisgarh co-operative society under the act of 1960 through the secretary of Chhattisgarh and others. It was a string of defaults that went through the poor management in the record of the bank and as a result the director was replaced. The shareholder and the other petitioner who were present objected to the bank's resolution for the merger with another bank that was standing but the officer who was authorized for this called for an AGM of the bank shareholder and the resolution to approve it. Later that the RBI received the request of amalgamation from the registrar and there was an NOC issued the co operative society registrar also issued the order that directed the bank for the merger the petitioner appealed to the against the order of the registrar to the government of state that whether the respondent failure to comply with section 16 of the act and rule 11 has rendered the enter entire exercises invalid.

The court later found out that on the first second January 2010 the super session order issued on September 13, 2006 got extended for one more year on September 12, 2007 but as the circumstances were not tailored the supersession order must be carried out and was too long for an additional year. As a consequence the ruling does not get the approval of the authorized officer action from 12 September 2008 to 2 January 2010. This included the date when the authorized officer called for the Annual General Meeting of the bank on November 7, 2009. It therefore clearly got on the face that the officer was not showered with the authority to call the bank and Annual General Meeting on that day as there was no formal order for this.

Reliance Industries Limited and IPCL Merger

Reliance industries which is considered among one of the most celebrated private sector companies when it comes to India has the second largest group in terms of annual turnover. This company basically dealt in Oil, gas, entertainment, logistics, infrastructure, power and telecommunication but later the business got split into the two sons of DhirubhaiAmbani called Anil and MukeshAmbani. IPCL was established in 1969 by the government of India and is known as the second largest company in the petrochemical industry that had the capacity of over 130,000 tonnes. It basically produced the product which is based on Benzene.

Therefore India saw one of the biggest mergers . between Oil and Gas sector between IPCL and Reliance in the year 2007. The ratio of the merger was kept 1:5 which clearly means that with every 5 shares of IPCL the shareholders will get one share of Reliance Industries Limited. This is one of the very fine example of horizontal acquisition that created positive valuation and help in the cash flow of the company.