

INTRODUCTION TO COMPANY LAW BY AVTAR SINGH [Lucknow, India: Eastern Book Company, 1998, xxxviii + 154 (including index). Softcover: Rs 65.00]

THIS is a slim volume, and can be useful as its epithet, an introduction. In 154 pages, the author covers the gamut of company law topics, from incorporation to winding up. As a comprehensive but compact introductory text, its aim appears to be to give the reader an overview of Indian company law, catering to those who are seeking a basic and practical knowledge of the subject. The practical, rather than academic, slant and focus of the work is evident in the first chapter entitled "Nature of Company and Registration." Rather than providing a historical primer to company law or laying out the sources of company law, the author plunges into the advantages and disadvantages of incorporation. Throughout, the work is written in a crisp no-nonsense style with a generous use of headings and sub-headings, for easy referencing. The book consists of 12 chapters, of which the longest are Chapters 4, 5 and 12 dealing with "Shares, Membership and Share Capital", "Directors and Other Managerial Personnel" and "Winding Up" respectively. Each of these chapters consists of simply 24 pages. As such, the book is readable and a convenient first-stop research tool. The shortest chapter is Chapter 11 which guides the reader through "Reconstructions and Amalgamations" in 3 pages.

Understandably, the work lacks the detail and the depth of discussion, in particular, of the thornier issues in company law, that would be found in a lengthier text. Notably, directors' duties are given a cursory treatment over 4 pages. Nonetheless, the brief write-up on directors' duties manages to cover 5 specified duties, being, the duty of good faith, the duty of care, the duty to attend board meetings, the duty not to delegate and the duty to disclose interest. Showing the influence and applicability of the English common law, references are made to English case law (standard fare such as *Cook v Deeks*, *Regal (Hastings) Ltd v Gulliver* and *Re City Equitable Fire Insurance Co* to name a few). References are, of course, also made to the relevant sections of the 1956 Companies Act and various Indian cases are footnoted to illustrate specific propositions. The case of *D Doss v CP Connel* AIR 1933 Mad 124 was cited (together with the English case of *Dovey v Cory*) to illustrate the point that although a director should not delegate his functions to another person, "there are certain duties, which keeping in mind the exigencies of business, may be left to some other officials." In that case, where one of the directors misappropriated the security money of employees, his co-directors were held not to be liable. On the other hand, the directors cannot always "throw up their hands and say, 'we know nothing and believed that everything was alright.'" The author refers to *Palai Central Bank Ltd v Joseph Augusti* (1966) 1 Comp LJ 360 Ker, "where in the case of a banking company, dividends were paid for as many as twenty-two years on the basis of manipulated accounts, the directors were not permitted to say that they relied upon competent staff and auditors."

With regard to minority protection, the rule in *Foss v Harbottle*, "fraud on the minority" and the derivative action are treated in 3 pages. Indeed, to one familiar with the English common law position thereon, the discussion is unhelpful. It is the description of the statutory remedies available to the aggrieved minority shareholder in India that could prove to be a fascinating read, especially to one contemplating a comparative study. In the realm of shareholder protection, the Indian regime, at first sight, seems quite distinct from that of Singapore or the UK. Section 397 of the 1956 Companies Act apparently provides that where the affairs of the company are being conducted in a manner oppressive to a member or some members, or in a manner which is prejudicial to the public interest, the members may make an application to the Board of Company Law Administration (hereinafter referred

to as the “Board”). Apart from members of the company, the Central Government also has the power to make an application. The Board, upon hearing such applications, is empowered to make an order “with a view to bringing to an end the matter complained of as it thinks fit.” The establishment of the Board, which was conferred jurisdiction in many company matters that had been previously exercised by the High Courts, is said to be one of the important effects of the Amendment Act of 1963. Any person aggrieved by any decision or order of the Board may file an appeal to the High Court, but only with respect to a question of law.

Furthermore, section 398 of the 1956 Companies Act is said to provide relief against “mismanagement” and such relief is given in favour of the company and not to any particular member or members. “Mismanagement” is established when “the affairs of the company are being conducted in a manner prejudicial to the interest of the company or public interest.” Cases were cited wherein the Supreme Court provided relief against mismanagement: *Rajahnumdry Electric Supply Corporation v A Nageswara Rao* AIR 1956 SC 213 and *Richardson and Crudas Ltd v Haridas Mundra* (1959) 29 Comp Cas 547. These cases could provide interesting reading for the courts appear to have great leeway in customising relief and granting appropriate orders, not limited to winding up. The author expounded on *Re Sindhri Iron Foundry P Ltd* (1968) 68 CSN 118 where “the Calcutta High Court refused to order the winding up of a grossly mismanaged company and appointed special officers to manage it because the company was engaged in special industries necessary for the implementation of the country’s plans.”

The author’s mission in a book of such wide scope and short length, realistically, would be to present the ostensible law and not to dissect it. This has been accomplished. The reader will not find thorough and incisive academic ruminations and pontificating, for they are, quite rightly, not provided in this handbook. Indeed, what this friendly volume (the soft cover features smiling watercolour cartoon characters) does is to set out an introduction to Indian company law, succinctly, giving the uninitiated a flavour of a unique regime, that just might whet an appetite for further exploration.