

With
The Companies (Amendment) Act, 1988

JEHANGIR M.J. SETHNA

Indian Company Law

TENTH EDITION

VOLUME-1

WADHWA & COMPANY

**With
The Companies (Amendment) Act, 1988**

Indian Company Law

Act of 1956 with upto date amendments, together with rules, forms, notifications, clarifications, guidelines, etc. etc., with special features like chapters on foreign collaborations, company taxation, comparative company law of five important countries and useful material from the publications of the Institute of Company Secretaries of India and the Institute of Chartered Accountants of India.

by

Jehangir M.J. Sethna, LL.M. (Harvard)

Tenth edition 1988

Thoroughly Revised & Enlarged by

D.C. Singhania, Advocate, Supreme Court of India
and

Professor P.S. Sangal, B.Sc. LL.M., Ph.D.,
Professor of Law, University of Delhi

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(Case law in this book is upto June 1988)

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Preface to the Tenth Edition

In this treatise, we have not only given a picture of the Indian Company Law and Practice but have also discussed, at some length, the Company Law of five important countries of the world with which India has very important and close business relations; these countries are—**Japan, Federal Republic of Germany, France, U.S.A. and Britain**. These are the five countries with which there have been maximum number of foreign collaboration and transfer of technology agreements. Therefore, we consider it worthwhile to give to the readers a good idea of the comparative position of Company Laws of these five countries.

This is the **first book in this country on Company Law** which discusses at some length relationship between a multinational corporation, a foreign company and a **foreign collaboration**. In view of the fact that Indian companies are entering into foreign collaboration agreements in large numbers, we consider it desirable to add a full chapter on this theme.

Corporate taxation also being an important consideration in the formation of a company and in the drafting of foreign collaboration agreements, a chapter has been added on Corporate Taxation also.

Sethna on Indian Company Law, already a well established treatise upto its Ninth Edition, nationally as well as internationally, has undergone tremendous improvements in the present Tenth Edition in numerous ways. Some of the special highlights have already been stated above. Another special feature is that in this Edition, chapterisation scheme of Companies Act, 1956, has been followed.

The treatment given in this treatise to important topics which are particularly current in view of the litigation going on in connection with the Bhopal 1984 Tragedy, namely, the **Holding-Subsidiary Company relationship** and the **Doctrine of Lifting the Corporate Veil**, is really unique and not to be found in any book on Company Law in this country.

We are grateful to the Institute of Company Secretaries of India for having permitted us to use the material contained in the Institute's Publication **Check-list/Working Sheet under the Companies Act, MRTP Act and Capital Issues (Control) Act**, in this publication by suitably incorporating it at appropriate places. The practical tips based on the material contained in the publication of the Institute, we are sure, would enhance the utility of this book.

We are also very grateful to the Institute of Chartered Accountants of India for permitting us to use part of their publication, entitled, **A Guide to Company Audit**, and another of their publication, entitled, **Guidance Note on Section 293 A of the Companies Act and the Auditor**. These two constitute appendices 72 and 73 in Volume II of this Treatise.

This Edition carries cases reported upto June 1987.

We place on record the assistance rendered to us in the preparation of this book by Shri Sudhir Kumar Dixit, B.A., LL.M.

SINGHANIA & CO.
Advocates
B-92, Himalaya House
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D.C. SINGHANIA

P.S. SANGAL

Preface to the Ninth Edition

This edition has been brought up-to-date. Substantial alterations, necessitated by the various amendments, have been made. Care has been taken to ensure accuracy in the commentaries, the case law, the various explanations, and the various Rules, Forms and Precedents and Drafts of Company Documents. The case law, English and Indian, has been brought up-to-date and made exhaustive.

Forms, Precedents and various Drafts of Company Documents, such as agreements, assignments, powers-of-attorney, contracts of appointment of managing and whole-time directors and secretaries, promoter's agreements, memoranda of association, objects clauses and sub-clauses in the memoranda of association, share certificates, stock certificates, share warrants to bearer, debentures, notices of various types of meetings and the minutes thereof, transfer forms, winding-up notices, declaration of solvency, etc. add to the value of the work and are indispensable to company officers, secretaries, directors and practitioners. These have been relegated to Volume II of this Work. New Guidelines relating to issue of Bonus Shares, 1981, the Company Secretaries Act, 1980 and the Company Secretaries Regulations, 1981, have been added as Appendix 42, Appendix 43 and Appendix 44 in Volume II.

Though this Book has been written in the subject-by-subject style and not through the conventional method of commentaries section-by-section, references to the relevant sections of the Companies Act have been given throughout the commentaries; and to every section, in the Text of the Companies Act, mention is made of the pages on which the relevant commentaries to that section are found in the Book. That makes the Work doubly convenient, and suitable to the busy practitioner also who looks up a section and needs all the law pertaining to that section without the necessity of going through the Index and the trouble of finding out numbers of the relevant pages for commentaries. Hence, in this Book, there is a combination of the conventional section-by-section style with the modern and more logical subject-by-subject treatment.

I am thankful to the Publishers and the Printers for having afforded facilities. I shall feel gratified by this Work serving the purposes it is meant to serve.

JEHANGIR M.J. SETHNA

A word from the Publishers

We are very happy to present Sethna's **Indian Company Law** in its Tenth Edition. We are a well-known publishing house of more than 45 years standing and Sethna's **Indian Company Law** is also a book of very great standing in the field of books on Indian Company Law.

Upto its Ninth Edition, it had almost become a classic and this Tenth edition has introduced several improvements. We have introduced several new features which are not to be found in any other book on Company Law in this country and those new features have been elaborated in the Preface by the learned authors.

We are very grateful to Shri D.C. Singhania, an Advocate of very great standing in the field of Company Law and to Professor P.S. Sangal of Law Department of Delhi University, a very distinguished Professor of Company Law, who acceded to our request to undertake this gigantic task of not only revising this book but also enlarging it and introducing several new features. We are also grateful to Shri C.C. Shah of Bombay for his constant encouragement and support.

We are also grateful to the Institute of Company Secretaries of India and the Institute of Chartered Accountants of India for their kind permission to use some of their materials.

We are enclosing a coupon in this book which will entitle the purchaser of the book to a free supplement incorporating the amendments, if any, effected to the Companies Act, 1956 during this year i.e. upto December, 1987.

The publishers welcome suggestions for improvement of the book so that we may serve our readers better in the future.

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