

Cyber Laws for e-commerce in India

Rajiv Sindwani and Deepika, YMCA University of Science and Technology, Faridabad

Abstract— The paper discusses cyber laws for e-commerce in India. On the basis of analysis of cyber laws for e-commerce, various advantages of cyber laws and challenges in enforcement of cyber laws have been discussed. Amendments from time to time in Indian cyber laws have also been presented. Finally through this paper, authors give suggestions to make cyber laws a win-win situation for all stakeholders.

Index Terms— Cyber Laws, e-commerce

I. INTRODUCTION

Technology has brought many important changes in our lives. Both individuals and companies got benefited by the use of technology. Individuals and Companies are focusing on strong online presence to leverage the commercial benefits of cyberspaces. Electronic commerce has slowly and steadily entered the Indian market. Today from getting information about anything to purchasing of products, everything may take place in an online environment. The rapid growth of electronic commerce has created the requirements for regulatory mechanisms and laws, to make e-commerce a success story. All of these regulatory mechanisms and laws come under the province of cyber laws.

II. CYBER LAWS FOR E-COMMERCE IN INDIA

Both the houses of the Indian Parliament passed the Information Technology Bill in May 2000. The Bill received the consent of the President in August 2000 and came into existence as the Information Technology Act, 2000. Cyber laws are contained in the IT Act, 2000. One of the objectives of the Act is to provide the legal infrastructure for e-commerce in India. The Information Technology Act, 2000 aims to provide the legal framework so that legal sanctity is accorded to all electronic records and other activities carried out by electronic means. As per the Act, an acceptance of contract may be expressed by electronic means of communication and the same shall have legal validity and enforceability. IT Act 2000 is also regulating the functioning of Internet intermediaries in India. Internet intermediaries' law and liability in

India has become very stringent after the passing of the Information Technology (Intermediaries Guidelines) Rules, 2011 of India. These Internet intermediaries liability Rules tells about the rights and responsibilities of internet intermediaries in India. If the Internet intermediaries do not follow the Rules, they may invite legal problems and appropriate action may be taken against them. The legal actions against foreign websites may also be taken.

III. ADVANTAGES OF CYBER LAWS FOR E-COMMERCE

The IT Act 2000 and its provisions contain many aspects from the perspective of e-commerce in India. As per the provisions of Act, email is a valid and legal form of communication in India. Companies can go for e-commerce using the legal infrastructure provided by the Act. Act has also given legal validity to Digital signatures. The Act allows Government to issue notification on the web. The Act enables the companies to file any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate Government in electronic form by means of such electronic form as may be prescribed by the appropriate Government. The IT Act also deals with the security issues, which are critical to the success of electronic commerce. The Act has given a legal definition to the concept of secure digital signatures. As per the IT Act, a corporate can have a statutory remedy in case if anyone breaks into their computer systems or network and causes damages.

IV. CHALLENGES RELATED TO CYBER LAWS FOR E-COMMERCE

Information Technology Act 2000 was passed 12 years back. But till date awareness among stakeholders related to cyber laws for e-commerce is limited. Lawyers in our country are not very aware of legal provisions of information technology. There are very few e-commerce lawyers and law firms in India that can provide expert guidance related to e-commerce. Police and Law enforcement agencies are also not completely aware about various aspects of Cyber Laws for e-commerce. There is also a challenge to make e-commerce companies understand the

requirement to have techno legal due diligence for establishing e-commerce business. There is limited awareness among the public about the provisions and remedies stipulated under the IT Act in case of fraud or crime. There is no special dispute resolution mechanism such as online dispute resolution to speedily resolve e-commerce disputes in India.

V. CONCLUSION

India is having huge potential for electronic commerce. But, there are many legal and regulatory challenges that are forcing limited growth of electronic commerce in India. E-commerce offers both advantages and disadvantages to its users. The advantages include online sales and purchase at competitive price, convenience, flexibility, online comparisons, time saving etc. The disadvantages come in form of frauds and cyber crimes committed against e-commerce users. In India though cyber laws are on paper but proper enforcement is not there. There is a challenge to make all stakeholders aware about e-commerce laws. Also, there are very few e-commerce lawyers and law firms in India that can provide expert guidance related to e-commerce. There is also a requirement of special dispute resolution mechanism such as online dispute resolution to resolve e-commerce disputes in India. Government and related agencies are also required to introduce training and awareness programs related to cyber laws and associated crimes. Moreover, law enforcement agencies and the police need to be trained about the various aspects of cyber laws related to e-commerce. It is also essential to conduct adequate training of the relevant departments who would draft and implement policies relating to e-commerce. The e-commerce companies are required to have techno legal due diligence for establishing e-commerce business in

India. Finally India needs to have more effective and useful e-commerce laws and their enforcement to make e-commerce a true success.

REFERENCES

- [1] <http://www.cyberlaws.net/cyberindia/introduction.htm>
- [2] <http://dit.mp.gov.in/cyberlawt.htm>
- [3] <http://webuser.hs-furtwangen.de/~heindl/ebte-08ss-law-in-business-Krishan.pdf>
- [4] <http://cyberlawsinindia.blogspot.in/search/label/E-COMMERCE%20IN%20INDIA>
- [5] <http://ictps.blogspot.in/2012/02/e-commerce-regulations-and-laws-in.html>
- [6] <http://corporatelawsforindia.blogspot.in/2012/03/e-commerce-laws-in-india.html>
- [7] <http://ptlbindia.blogspot.in/2011/12/cyber-due-diligence-for-indian.html>
- [8] <http://ictps.blogspot.in/2011/12/internet-intermediary-laws-in-india-and.html>
- [9] <http://ptlbindia.blogspot.in/2012/02/internet-intermediary-liability-in.html>
- [10] <http://ictps.blogspot.in/2012/02/information-technology-intermediaries.html>
- [11] <http://cjnewsind.blogspot.in/2012/02/legal-requirements-of-undertaking-e.html>
- [12] <http://ptlbindia.blogspot.in/2011/12/e-commerce-laws-in-india.html>
- [13] <http://cyberlawsinindia.blogspot.in/2011/12/e-commerce-lawyers-and-law-firms-in.html>
- [14] <http://corporatelawsforindia.blogspot.in/2012/02/e-commerce-dispute-resolution-in-india.html>
- [15] <http://ictps.blogspot.in/2011/06/online-dispute-resolution-for-cross.html>
- [16] <http://corporatelawsforindia.blogspot.in/2012/03/e-commerce-regulations-and-laws-in.html>