

“CONSUMER ISSUES IN THE E-COMMERCE REGIME: CHALLENGES AND LEGAL RESPONSES FOCUSING UPON AN APPROACH TOWARDS A POLICY FRAMEWORK”

Author: Manika Singh

Int.B.A.LL.B (Specialization in Energy Laws)

Roll: R450211058

2011-2016

DISSERTATION

Submitted under the guidance of: **Dr. Shikha Dimri**

Assistant Professor (Senior Scale)

**This dissertation is submitted in partial fulfilment of the degree of B.A.LL.B.
(Hons.)**



**College of Legal Studies
University of Petroleum and Energy Studies
Dehradun
2016**

DECLARATION

I declare that the dissertation entitled **“Consumer Issues In The E-Commerce Regime: Challenges and Legal Responses Focusing Upon An Approach Towards A Policy Framework”** is the outcome of my own work conducted under the supervision of **Dr. Shikha Dimri**, at College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

I declare that the dissertation comprises only of my original work and due acknowledgement has been made in the text to all other material used.

MANIKA SINGH

12.04.2016

CERTIFICATE

This is to certify that the research work entitled **“Consumer Issues In The E-Commerce Regime: Challenges and Legal Responses Focusing Upon An Approach Towards A Policy Framework”** is the work done by **MANIKA SINGH** under my guidance and supervision for the partial fulfilment of the requirement of **B.A., LL.B. (Hons.)** degree at College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

Dr. Shikha Dimri

Assistant Professor- Senior Scale.

12.04.2016.

ABSTRACT

E-commerce in today's world has become one of the most necessary part of our life. Particularly for the urban areas, the accessibility to platforms of e-commerce is not just an opportunity but rather it is a necessity for most people. In 2014 nearly 75% being (2.1 billion) of all internet users in the world the 2.8 billion live in top 20 countries. It is not surprising to note that India is in a chief position for the growth and development of the e-commerce sector. The most outstanding sector for which e-commerce presents an opportunity is retail, since it provides for a vivid change from brick to mortar establishments and to virtual shops which could operate for a tiny proportion of the cost.

Social networking plays a very vital role in driving consumers online and getting them to engage with brands. While Indians primarily use the internet for communications, largely in the form of messages specifically emails, social media is also an important driver of internet users in India. The Internet and Mobile Association of India (IMAI) report estimates that there were 243 million internet users in the country by June 2014, which overtook the US as the world's second largest internet base after China.¹

Electronic commerce has been identified as one of the key areas for policy research among the WTO-related issues in the area of Services. Despite the much talked about dotcom crash, e-commerce continues to be an extremely important development and vehicle for trade. Economies and enterprises across the globe are integrating their systems with this digital reality. For international trade, the use and benefits of Information Technology (IT) are obvious and growing.² Since 1998, e-commerce has also been on the multilateral trade agenda of the World Trade Organization (WTO). Though formal negotiations in this area have not yet begun separately, all four councils at WTO have been researching and discussing the impact of e-commerce on the existing multilateral trade agreements. In the context of the on-going GATS negotiations, it is all the more important that India, along with other developing countries, should be prepared with a negotiating position. This project is an attempt to contribute towards that end. The project also points out that though India has made

¹ Dhamija Lakshay "E-commerce in India" 2014 Singh & Associates.

² Singh Didar "Electronic Commerce: Issues of policy and Strategy for India" 2002 Indian Council for Research on International Economic Relations.

giant strides in software and business process outsourcing (BPO) services exports, the use of e-commerce for the rest of its export basket remains an untapped potential. At the end of this project the author wants to conclude her project by making some useful suggestions and recommendations relating to the future strategy and policy agenda for India in issues related to e-commerce and the international trading regime.

Trading on the internet is through the transmission of electronic data from the suppliers or producers of goods and services to the buyers, and vice versa. In view of the openness and accessibility of the internet the protection of such data has been a constant source of concern for internet users and consistently has remained a threat to e-commerce.³

A number of jurisdictions have therefore come up with protective legislation.⁴ There is no legislation on the protection of data presently in India, and the situation portends a great danger for consumers in e-commerce. The Indian Cabinet on August 1, 2015 approved a new Consumer Protection Bill 2015 that seeks to replace a 29-year-old law and proposes to set up a regulatory authority which will have powers to recall products and initiate a class suit against defaulting companies, including e-tailers. The proposed new law assumes importance as there is growing concern over safety of consumer products and services especially after the Maggi controversy. The new bill, approved by the Cabinet is now likely to be introduced in the ongoing session of Parliament, provides for a comprehensive framework for protection of consumer interest and will replace the Consumer Protection Act, 1986. Explaining the rationale behind bringing a new bill, it can be located that misleading advertisements, multi-level marketing, telemarketing and direct selling pose new challenges to consumer protection. Hence, there was a need to modernise the act to address the situation effectively. The Bill also provides for stringent penalty, including life imprisonment in certain cases, sources added. Thus, the following project report gives the situation of the e-consumers in the present scenario, Indian policy framework, aspects of technological advancements and the role of the Indian Legislatures.

³ See Gringas and Nabarro *Laws of the Internet* 249.

⁴ For instance, *the Data Protection Act 1984* was enacted in the UK and it harmonised earlier legislation, policies and directives meant to protect communication through the Internet. See also the *Electronic Communications Privacy Act 1988* in the USA.

ACKNOWLEDGEMENT

I have taken efforts in this dissertation. However, it would not have been possible without the kind support and help of many individuals. I would like to extend my sincere thanks to all of them.

I am highly indebted to Ms. Shikha Dimri Ma'am, for her guidance and constant supervision as well as for providing necessary information regarding the project & also for her support in completing the project.

I would like to express my gratitude towards our teachers & library staff of University of Petroleum And Energy Studies for their kind co-operation and encouragement which help me in completion of this project.

My thanks and appreciations also go to our colleague in developing the project, resource and people who have willingly helped me out with their abilities.

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LIST OF ABBREVIATIONS

ch	chapter(s).
IT	Information Technology.
OECD	Organisation for Economic Co-operation and Development.
s	section(s).
EDI	Electronic Data Interchange.
WTO	World Trade Organisation.
IPR	Intellectual Property Rights.
CD	Compact Disc.
ITES	IT Enabled Services.
JV	Joint Venture.
ICANN	Internet Corporation for Assigned Names and Numbers.
DNSO	Domain Name Supporting Organisation.
WIPO	World Intellectual Property Organization.
MFN	Most Favoured Nations.
MLEC	Model Law on Electronic Commerce.
OSP	Online Service Provider.
TAG	Technical Assistance Group.
CCPA	Central Consumer Protection Authority.

STATEMENT OF PROBLEM

The problem prevailing in the current system for Electronic Commerce Regime is the helplessness on the part of the consumers where there is no specific legislation concerning wholly and solely to the Electronic Commerce. In the developing country like India the topic Electronic Commerce or Electronic Governance finds its space in bits and pieces in provisions of- The Information Technology Act, 2000; The Consumer Protection Act, 1986; The Indian Contracts Act, 1872; The Indian Penal Code, 1869 etc. No specific regulation is yet made to solve this issue. The Consumer Protection Bill, 2015 is still pending.

The only method to curb this problem is to make a legislation which only focuses upon the problems of Electronic Commerce. Where all the Technological related crimes specifically those related to computers can be dealt with and where our innocent consumers can be protected under an umbrella known as law.

OBJECTIVE OF STUDY

There is no doubt that the internet has added a great deal to the quality of human life in the contemporary world. It has knitted the world together as a global village. Many difficulties which hampered international and even national commercial transactions in the past have now been consigned to the dustbin of history. The emergence of electronic commerce has occurred as a result of the development of the internet, and commercial transactions are conducted through it between parties from different parts of the world who may never see themselves in their lifetimes.⁵ However, the emergence of electronic commerce has also brought with it a number of legal and socio-economic issues, especially in developing nations such as India, which issues pose significant challenges to the legal regime of electronic commerce in these countries. This project examines these legal issues within the context of the current legal and regulatory framework for electronic commerce in India, as India still doesn't have any law related to e-commerce, only a bill is still pending in the Lok Sabha related to the same .

Thus this project is an attempt to consolidate all the upcoming thoughts and also lay a conclusion as to what is to be done? It is thus to throw light on the emerging e-commerce issues and the challenges the consumers are facing while trading or shopping. Also, the steps taken by the Indian Government on the same will also be discussed. This project will also analyse the role of International Conventions on the emerging issues of e-commerce and the steps taken by various countries on the same issue.

⁵ http://www.nwu.ac.za/files/images/2008x3x_Akomolede_art.pdf.

SCOPE OF STUDY

The scope of this project is limited to India. But there have been instances picked from other countries in order to compare the position of a particular fact. For Example, a lot has been referred from Nigeria and United Kingdom. The project deals with the Indian laws and also simultaneously with different Conventions with the help of which certain issues were able to be outlined.

RESEARCH QUESTIONS

The research questions which can be outlined for the purpose of this dissertation are as follows:

- i.** How far has the Indian Government been successful in implementing an electronic friendly legislation?
- ii.** What can be done to improve the business done through the electronic channel?
- iii.** What is the status of the Consumer Protection Bill, 2015?
- iv.** How far has the Information Technology Act, 2000 helped in curbing the malpractices attached to the online consumers?
- v.** What is the taxation scheme involved in an Electronic Scenario?

HYPOTHESIS

The hypothesis or probable outcome which has been expected from the following project is that: to enlighten the readers about the challenges which are being faced by the consumers in this emerging trends of e-commerce. The days are gone when the exchange of goods required two individuals standing in front of each other and paying a considerable amount. Now is the era of technology. The era where, the buyer or the producer may not be present in front of each other. A mere online transaction is enough. This on one hand where reduced the burden on the consumers, on the other hand has opened gates for fraud, forgery and breach of trust. Thus, measure should be taken to curb such malpractices evading in our society. Also by the end of this project an analysis of the new Consumer Protection Bill, 2015 is sought.

RESEARCH METHODOLOGY

The method is purely descriptive and doctrinal in nature. To accomplish the earlier mentioned objective dependence has been heavily placed on the secondary data collection obtained from the various sources such as books, journals, online articles, newspaper and pages from internet. The research methodology used is non-empirical one for collection of data and information.

LITERATURE REVIEW

On the basis of the article written by *Mr. Didar Singh* on '*Electronic Commerce: Issues of policy and Strategy for India*' he concludes that: "E-commerce is more about strategy and business management than it is about technology. It is essential to create a policy and regulatory environment that favours the development of e-commerce and harmonises national approaches. The issue is not whether the Internet should be regulated, but the issue is how it is to be done. Certifying and authentication authorities that have to come up as a sequel to the IT Act need to be fully operational early. Implementation of e-governance needs to be pushed through despite the constraints and hurdles that will develop against it. Developing countries, such as India, also need to prepare themselves for the future multilateral trade agenda which will necessarily include e-commerce. For arriving at a national position, account must be taken of the larger economic perspective of India Inc, at both national and global levels - a perspective that should see the potential of the India as a global knowledge power. The private sector must be involved and consulted in arriving at any such position". On the basis of above literature the following objective is proposed.

According to article by *TI Acomolede* named '*Contemporary Legal Issues in Electronic Commerce in Nigeria*' he proposes that: "Electronic commerce is a budding phenomenon in commercial transactions in India. But, because of its peculiar nature it is imbued with many problems which have left the consumers in e-commerce gasping for protection. However, given the speed with which the internet is permeating commercial transactions in India, especially in the banking and telecommunications sectors of the economy, the best that can be suggested is that the legal issues and problems presently confronting e-commerce should be addressed directly and expeditiously, in the interests of the teeming population of Indian consumers. This can be achieved only by pressurising the Government into enacting the various electronic commerce-related bills before it into law, and establishing appropriate institutions for monitoring electronic commerce in India"

In the article written by *Lakshya Dhamija* on '*E-commerce in India*' he states that: "The growth of the e-commerce industry is not only indicative of the increasing openness of the public but has also brought to the front the issues that the legal system

of the country has been faced within. The legal system has constantly tried to be updated especially with the enactment of IT Act to deal with lots of issues emerging from the use of internet. Therefore, a comprehensive understanding of the legal regime and the possible issues that an e-commerce business would face together with effective risk management plans has been the need of the hour for e-commerce businesses to succeed in this industry.”

The newspaper '*The Indian Express*' in one of their article published on September 7, 2015 stated that: “The Union Cabinet had in July approved the new bill as ‘Consumer Protection Bill, 2015’ and Consumer Affairs Minister Ramvilas Pasvan had tabled it in Lok Sabha as well. The new bill seeks to replace the 29-year-old law and proposes to set up a Consumer Protection Authority which will also have the power to initiate class suit against defaulting companies. The new bill came against the backdrop of emergence of complex products and services in the era of growing e-commerce business in India that has rendered consumers vulnerable to new forms of unfair trade and unethical business practices”. Thus, the following has been referred to throw some more light on the new Consumer Bill which is still pending.

CHAPTER 1

INTRODUCTION

The Recent technological advancement has created a new digital era. The extensive use of the internet and other powerful fresh technologies are having a vivid impact on markets and buyers. With the creation of “www” (World Wide Web) and Web Browsers in 1990’s the internet was transformed from a “simple communication tool to a certifiably revolutionary technology”. The growth of internet and its users based globally, in recent years has been truly phenomenal. India in these recent years has been continuously experiencing a continuous rapid growth in electronic commerce and there are also new companies which are springing up at a very rapid rate. Electronic commerce is thus broadening the globe today, and our country India, is no exception to it. The best advantage of electronic business is that it is efficient, and the very truth that the completion of one’s transaction is just a click away. He clicks on the mouse and it is done. Item information is along these lines more broad and the cost or item comparison are likewise conceivable, empowering the buyers to settle on a totally educated decision. Before going further into it, it is necessary to understand the meaning of electronic commerce. E-commerce is a term for “any type of business, or commercial transaction that involves the transfer of information across the Internet. It covers a range of different types of businesses, from consumer based retail sites, through auction or music sites, to business exchanges trading goods and services between corporations. It is currently one of the most important aspects of the Internet to emerge. Electronic commerce allows consumers to electronically exchange goods and services with no barriers of time or distance”. The online buying of good in India is now done which was done never before and this trend seems to be easily spreading on. The retail market of our country which is online, India which has been esteemed at around \$3.5 billion (Rs 21,000 crore) is relied upon to witness more than a 7-fold development by the year 2019. Regardless of the supportive angles, on-line shopping additionally shows various dangers that should be managed. An extremely on account of higher presentation of credit cards, their are graive robbery and misrepresentation issues, other than the wearisome issue of data abuse for showcasing. There are furthermore issues of hurt, wrong or conceded conveyance. In this project the emphasis will be upon discussing benefits of online shopping and various challenges

faced by the online shoppers, further this project will also discuss that whether provisions of the consumer protection act are of any help for online shoppers, and if not then what needs to be done in this regard.⁶

There is no incredulity that the web has included an awesome arrangement, to the way of creature life in this contemporary world. It has altogether weaved, the world into and as - "a global town". Various challenges which have weighed down the national and global business exchanges in the past has now been relegated to the dustbin of history. The surfacing of electronic business has happened as an after effect of the advancement of the web, and the business exchanges are driven through it between social events from various different parts of the world who may have never see them in their lifetimes. Be that as it may, the rise of electronic business has likewise carried with it various financial and lawful issues, particularly in a creating country, for example, India, which issues posture earth shattering difficulties to the lawful administration of electronic trade in those nations.⁷

"Globalisation" and the most recent "computerized economy" are all together having a superior effect upon the general economy. The markets nationally, of those which incorporates the developing countries, have been tremendously impacted by various of changes in the overall money related environment, and moreover these changes are going to constantly influence natives ventures and all around the world. The outcome of the electronic business for the developing nations is mostly in no time, in the "international trade sector". Late studies demonstrate that over the span of late years the charge and import business wanders have created, and, thusly, the impact of electronic business would be critical. Electronic business will similarly essentially influence the "service segment", as not simply is this, the fastest creating region today, it is also the part with the best made arrangements for offering "digitized administration and trades". For a critical number of countries this is of particular congruity as, the lion's share of their authorities are used in the organizations fragment division or sector.⁸

⁶ Pathak Poonam "Challenges of Online Shopping and Consumer Protection" 2015 *International Journal in Management and Social Science (Impact Factor- 4.358) ISSN: 2321-1784 Vol.03 Issue-09.*

⁷ Akomolede TI "Contemporary Legal Issues In Electronic Commerce In Nigeria" 2008 *Potchefstroomse Elektroniese Regsblad/Potchefstroom Electronic Law Journal(African Journals Online) PER/PELJ Vol.11 No.3.*

⁸ International Labour Organization (1999).

The Internet is for the most part an everlasting and incomprehensibly expanding system of PCs over the globe that is interconnected over existing “telecommunications systems”. Essentially characterizing, it is a network of networks.⁹ It is as yet changing and advancing. Despite the fact that, a system in name and topography, is an animal of the PC and not the conventional system of the phone or TV industry. It will, from this time forward, keep on changing and develop at the same rate, with which the PC business changes, however just on the off chance that it is to stay applicable. Interestingly, in the historical backdrop of exchange and hardware, Internet certifications to give the immediate control and getting over buying and offering trades to everybody, that is, from an individual speculator to the easygoing customers. The Internet develops, past the exchanges to that everything precedes and after from item show and promoting to request following, and in some cases even conveyance.

1.1 DEFINITION PERSPECTIVE

“*Electronic commerce* is the buying and selling of goods and services through the internet. It has also been defined as the sharing of business information, the maintaining of business relationships, and the conducting of transactions by means of telecommunication networks”. The “United Kingdom Cabinet Office” has defined e-commerce as “the exchange of information across electronic networks at any stage in the supply chain, whether within an organisation, between businesses, between businesses and consumers, or between the public and private sectors, whether paid or unpaid”.

The extent of electronic business is wide and incorporates, all electronically intervened exchanges between an association and an outsider. It is not limited exclusively to the genuine purchasing and offering of items, however incorporates Presale and Postsale exercises. In more basic terms, once an agreement of a deal is affected between a dealer and a buyer using such electronic means as the electronic mail, paying little heed to partition or any geographical hindrance, it is within the zone of electronic exchange.

⁹ WIPO Report (1999).

The objectives of electronic exchange are colossal. They join the help of worldwide cooperation through trade, making stock and organizations available to purchasers everywhere throughout the world independent of separation, the development of the customer base for makers or makers of products and administrations, and a delivering so as to lessen in the expenses of administration conveyance these electronically. The destinations of electronic business underscore its significance in the developing worldwide group. With the impact that today's buyers can have getting to merchandise and administrations in the outmost parts of the world without seeing the traders. The standard obtaining and offering methodology is essentially in effect bit by bit, supplanted by web exchanging, particularly in more propelled nations.

The real ramifications of electronic business accordingly, lies in the way that it energize a solitary world getting so as to exchange framework which is encouraged through electronic expects to items and organizations from different parts of the world. This has incited the advancement of uniform authoritative rules on web organization to ensure the homogeneity of the conditions under which trades are made to suppliers or vendors and buyers of stock and organizations through the web.¹⁰

Shoppers in electronic business are confronted with various dangers which are emerging up out of the general nonappearance of perception of the operations of the web. This has thusly been heightened by different legitimate issues which have been by and large taken fantastic thought of in significantly perplexing and pushed countries, yet which issues are up till now being overseen in creating nations, for example, India, where web exchanging is reasonably something new. The following mentioned problems incorporate the degree till which, "the correspondence between the gatherings is ensured", "the arrangement of the agreement on the web", "the lawful means of affecting installment in electronic trade", "which court will accept ward in the case of a debate between gatherings to a web contract", in addition "what laws will represent the exchanges". Whether it is the law made by the merchant or that made by the purchaser or the Consumer? A few different issues that are undermining to the electronic trade are those of cyber crimes, are also the manner of proving the problems in the internet associated transactions.

¹⁰ "For Example, such associations as The Internet Corporation, The Internet Society, The Internet Engineering Task Force, and The Worldwide Web Consortium were all settled to accomplish consistency of terms and conditions on the Internet."

Electronic trade has been doubtlessly characterized as “directing business on-line”. “**The Organization for Economic Cooperation and Development**” (OECD) characterizes “electronic trade as another method for directing business, qualifying it as business happening over systems which utilize non-exclusive conventions that are set up through an open standard setting process, for example, the Internet”.¹¹ This one definition has recognized it from, the prior said EDI¹² sort “exclusive based systems or Intranets that were not based upon an open (and, along these lines are, not in any manner cost proficient data foundation) like the Internet”. In the “Work Programme based on Electronic Commerce held by the WTO”, “*it is understood to mean the production, distribution, marketing, sale or delivery of goods and services by electronic means. A commercial transaction can be divided into three main stages: the advertising and searching stage, the ordering and payment stage and the delivery stage. Any or all of these may be carried out electronically and may, therefore, be covered by the concept of electronic commerce*”. Generally defining, the electronic trade contains every one of the sorts of business exchanges which are then over and finished with an electronic system or medium, basically known as, Internet.

FROM THE BUSINESS PERSPECTIVE: E-Commerce remains for electronic business and the one having importance to exchanging zone of products and administrations over an electronic medium, that is, the Internet or by way of telephone. It thus, has totally changed over the substance of retailing, as of a physical business sector to the advanced business sector. Over an Internet, it fundamentally remains connected with. a site, which offers items or administrations specifically from a website utilizing the shopping wicker bin framework or the shopping basket and having an online installment framework. Maybe, it is the application's correspondence and data sharing innovation amongst exchanging accomplices to the mission of business goals. This term additionally alludes to an online stock, bond exchanges, purchasing and downloading programming's without even steadily heading off to a store. This contains numerous sorts of exercises and is along these lines not limited just to obtaining of products and administrations which are done electronically. It can include different electronic exchanges, e-advertising, store network administrations,

¹¹ OECD (1999).

¹² Electronic Data Interchange.

mechanized stock administration frameworks, electronic information trade and robotized information gathering frameworks.

Progression in innovation has brought the libraries, post workplaces, amusement venues, money related organizations and so on to only a tick of the mouse away and in the pocket of the clients. Because of this, Customers can now buy sitting so as to anything from e-advertise just easily in their quarters and can deliver it to anybody who is living miles separated and that to simply by snap of a mouse.

The colossal development of the electronic business in the most recent 10 years could be seen was because of the force of the Internet to achieve every single part of the world which maintains awesome potential for upgrading the worldwide exchange and boosting the worldwide economy. Yet, working together on the Internet additionally has a few dangers and different lawful issues connected with it. The quick pace of electronic business advancement has tested the current lawful framework. Organizations doing electronic trade dependably design another business method and guidelines that makes issue for the predominant lawful framework, in attempting to adjust the prevailing laws to fit into another kind of setting, where it becomes basically obscured as to how these laws have to apply or will be applying. On the premise of the foundation of these lawful complexities, a few nations over the world have ordered electronic business enactments and not neglecting to say that India is one of the nations amongst them.

Since electronic exchange is related to the free and snappy stream of business trades over the cutoff points, it is to a great degree key to have feasible laws to keep up a strategic distance from avoidance of tax collection and choose other legitimate issues. For instance, ABC, is an organization in France, having its server in India, might offer it's items to clients in USA or different nations. In this such a circumstance, assume on the off chance that you get some inadequate products or in the event that you lament for having made the buy, the inquiry here would emerge is as to which ward you can sue the organization in or claim the harms separately. Organization, on other hand, may need to agree to remote laws, which they may not know off. Different issues which are connected with a specialized angle identified with dangers made by utilizing the individual data on the Internet are phishing, wholesale fraud, caricaturing, deceitful messages, malware assault and infections.

In monetary divisions, the effect of electronic trade has been for the most part seen. To a great extent the majority of the banks and money related establishments have gone online for exchanges and exchange inside of the standards of Reserve Bank of India and Securities Exchange Board of India. For the monetary exchanges occurring in the electronic trade, the e-installment entryway has been along these lines presented and the surely understood administrators which are ICICI, Citibank, HDFC, Amex are additionally giving administration by putting a charge of an exceptionally chivalrous sum from the customers known as an administration charge. The Payment is acknowledged on the electronic trade sites from the Mastercards, money cards, check cards, I-saving money, digital money and so on.

From a business perspective, electronic trade is not constrained to the buy of an item. It incorporates, other than email and other correspondence stages, all data or administrations that an organization might be offering to its clients over the internet, from the pre buy data to after-deal administration and backing. There can be considered two noteworthy employments of electronic trade:

- i. Primarily, to use it for reducing the transaction costs all over by escalating its competence in the utilization of both the time and the strategies,¹³ and therefore by bringing down the expenses.
- ii. Secondly, to use it both as an publicizing instrument to increment both deals and client administrations and in addition to make another business through it; for instance, Information Technology empowered business, call-focuses, programming and support administrations, and so on and additionally “digital commerce”.

It is consequently, an instrument for both dynamic organizations and additionally it is an open door for new business, both for the current organizations and in addition for the new participants. However, the eventual fate of the electronic business might in any case be exceptionally erratic, it ought to be additionally noticed that maybe in a limited capacity to focus time, all organizations should know how to make utilization of it-much as most organizations needed to figure out how to adjust to the telephone

¹³ This degrees from the usage of email and minute visit on the net to EDI (Electronic Data Interchange) and automated supply chains. EDI has a section at both B2B and B2G levels-using the EDI for custom leeway, exchange methods, et cetera gives snappier and smoother trade efficiencies for business.

and fax, just all the more so as more exchange exchanges and supply chains get to be advanced and on-line.

Electronic exchange, in any case, is more than just devices and business included. It identifies with a totally better approach for cooperating over a medium that movements the very chooses of doing that business. It is, in this way, a great deal more about method and business organization than it is about development. With a particular deciding objective to grasp electronic business and its proposals for making countries, it is basic, in this way, to see it from the perspective of the quality based parts of electronic exchange, i.e. those that identify with the business between the unmistakable players, and moreover the framework perspectives, i.e. those crucial necessities that are required in making countries for it to make. It is battled that it is in light of a real sympathy toward making countries, for instance, India to make around there so that the protection of the automated economy is therefore also shared by the South.

1.2 DATA SECURITY IN ELECTRONIC COMMERCE

In the case of *R vs. Brown*¹⁴, which is an English Case, Lord Hoffman logically capture the control of the problems which are coupled with the information security system in electronic trade which as beneath takes after:

“Immeasurable measures of data about everybody are put away on PCs, equipped for moment transmission anyplace on the planet and gettingible at the touch of a console. The privilege to hush up about oneself, to tell other individuals that specific things are not their issue to worry about is under innovative risk.”

Exchanging on the web is through the telecast of electronic information from the suppliers or the makers of products and administrations to the purchasers, furthermore the other way around. In perspective of the openness and gettingible of the web the insurance of such information has been a steady wellspring of sympathy toward web clients and hence has remained a risk to electronic trade.

Various wards have along these lines thought of defensive enactment legislation.¹⁵ India also being one of the countries having been settled with the Informations

¹⁴ *R vs. Brown* [1996] 1 All ER 545, 556.

Technology Act, 2000. It is suggested that some more reference should also be taken as of the United Kingdom, wherein there are a few rule that oversee the insignificant thought about the assurance of the information or the correspondence as of between the gatherings in the majority of the web exchanges, to have a more stringent legislation upon the same.¹⁶

1.3 FORMATION OF THE CONTRACT ON INTERNET

The purpose existing apart from everything else when an agreement can be so said to have appeared on the web, offering ascend to the presence of the rights and obligations as amid the gatherings, has been amongst one of the problematical issues in electronic business. Conversely, customary business exchanges don't represent any noteworthy issue on the grounds that there are intricate basic statutory and law guidelines that oversee such exchanges.

The extraordinary way of the web contracts has made the vast majority of the regular law rules material to the business contracts which are inapplicable to such contracts. For instance, the sites are composed in such a path in order to constitute a welcome to make an offer and not to circumstances of genuine offers by the web proprietors. In any case, in a deal over the web, both of the two that is, the presentation and the real deal are frequently melded.

Therefore, the dealer or the site proprietor must plan the site pages in a manner that it should plainly depict that the information contained upon the web in valuation for a particular thing or organization is completely planned to evoke an offer and is not in itself an offer. It is subsequently basic for the proprietor of a site to fail in favour of alert in making a web welcome, and one strategy for doing this is to express that he won't be bound by any correspondence from an outsider aside from if the proprietor acknowledges such correspondence and educates the outsider likewise.

The likeness has constantly been to contrast a site with a shop in a way that the thing data on the site constitutes a welcome to make an offer. While it has been held that a diversion for not holding shops as making offers is to ensure that if the shop's stock is

¹⁵ Case in point, the Data Protection Act 1984 was established by the UK and it blended the before enactment, the arrangements and the mandates which intended to ensure the correspondence through the Internet. Additionally, see the Electronic Communications Privacy Act 1988 in the USA.

¹⁶ The sections of the *Data Protection Act 1984* (UK).

depleted, an avid customer can't sue the shop proprietor for damages. The conflict has similarly been made that a site is not offering physical merchandise available to be purchased, and all things considered it is hard to acknowledge that supplies can be depleted, on the grounds that computerized items supplied on the web are interminable in supply.

Despite the fact that there is no immediate chose power on the above point known not without further ado, it concurs with great sense and business need that the web proprietor ought to plainly demonstrate on the off chance that the presentation or advancement of his stock on the web means a prompt offer to whoever interfaces with the site page, or a welcome to plan an offer. The approach would save a lot of the time and cost that in some way or another have been squandered on trivial or superfluous case.

Offers in the electronic business are generally made electronically. Messages be not as quick as faxes and telephone calls. An email message is being sent to an organizations supplier who, thusly conveys it in the case of the recipient. Messages can be sent to a wrong address or postponed by any of the servers in transit, and it may not be gathered or read until at some point after their conveyance. It might in this manner be hard to know when an email was really perused, to decide when an offer was acknowledgment or made conveyed. As indicated by **Gringas**, the best practice legally is to make any offer by email subject to a date on which the offer will slip by. A target time and date must be determined. On the off chance that no goal is appeared as to the lifespan of the offer, the courts would recommend that the offer slips after a sensible time.

The general tenets which are appropriate to the acknowledgment of the offers are furthermore significant to those affirmation of the offers made on the Internet. While, the offer is made through n email, the receipt of such sends made by the site proprietor won't be constituting, the endorsement of the terms of such an offer. It has in like manner been held that email message sent in answer to an informed offer communicating the recipient's desire to answer at the appointed time won't be an acknowledgment.

A contractual circumstance that is regularly impossible to miss to the web is the thought expected to concrete an online contract. The utilization of advanced trade out

trade for merchandise or administrations raises issues not of thought yet rather of execution of an understanding in a known web-wrap sort of agreement which is an assention at the front of a website which suggests to attach the projects to an understanding in the event that they keep on skimming the page. The Promises made to pay over the web are adequate to shape the idea to make an agreement, similarly in that capacity guarantees would prompt enforceable contracts in typical business exchanges.

Contractual aim is likewise crucial to going into web or online contracts. The vicinity of a contractual goal is significantly more vital in electronic trade, since as a general rule one and only person is included in the correspondence, with customized machines or computers at the other side. It is settled that assentions can be made with machines, and it is of no legitimate result that a machine physically completed the understanding. In any case, as a rule the courts look impartially into the conditions of every case to figure out if an agreement has been made or not. Thus, in choosing the key objective the court applies an objective test as against a subjective one.

1.4 THE PAYMENT SYSTEM IN THE ELECTRONIC COMMERCE

Making repayment for the commodities and administrations which are purchased through the web additionally represents some excellent issues in light of the very truth that the gatherings making installment might be a large number of kilometers away. The issues connected with web installment are in connection to the failure of the web to ensure the wellbeing of such installments and the likelihood of copying installment, since a PC could possibly turn into a falsifier of advanced banknotes.

Merchandise and administrations purchased or supplied through the web can be paid for through the web similarly that the web can be utilized to make offers and acknowledge offers. Merchants or dealers frequently demand accepting and approving installments before giving administrations or discharging products to clients, and it is in this manner recommended that terms to this impact ought to be joined as a major aspect of the standard structure understandings in electronic trade.

The Popular strategies for affecting installments for the merchandise purchased through the web incorporate the utilization of keen cards, Mastercards, advanced or

the electronic money or checks, and the platinum cards. The utilization of Visas is still not extremely prominent in creating nations, on the grounds that electronic business itself is still at its earliest stages, and the practice is along these lines for the dealers to get bank ensures in such exchanges. On the off chance that the merchandise are supplied and portion is not expected through the bank's guarantee, the merchant has a benefit of movement against the issuing bank that has guaranteed portions.

There are numerous issues which are associated with acquiring the bank ensures in India, utilized for installments as a part of admiration of the products which are purchased globally or through the web on the web. This has along these lines incredibly hampered the entire improvement of the electronic trade. In any case, with the expanding level of modernity in data innovation and the advancement of the telecom part, the utilization of Mastercard and other installment offices in electronic business will turn out to be progressively well known, and all the while, a portion of the issues connected with installment for merchandise and administrations in electronic trade will be diminished.

1.5 BUSINESS MODELS

The commonly facilitated business models by electronic commerce are:-

- i. B2B:** Business to Business (B2B) depicts trade exchanges between different organizations along these lines empowering different organizations to fabricate new associations with different organizations. For example, in the middle of maker and a wholesaler, or in the middle of wholesaler and a retailer.
- ii. B2C:** Business to Consumer (B2C) depicts exercises of organizations serving end shoppers with items and/or administrations. The immediate managing has dependably existed in the middle of organizations and shoppers in any case, with surfacing of electronic trade the energy is been picked up in such exchanges.
- iii. C2C:** Consumer to Consumer (C2C) includes the electronically encouraged exchanges between shoppers through some outsider. Customarily purchasers have had dealings with different buyers, however just few of those exercises were in a business sense.

- iv. **C2B:** Consumer to Business (C2B) has involved the consumers those provide the goods or services to the businesses and thus create the whole value for the business.
- v. **B2B2C:** This is thus an alternative to the B2C model and in this kind of model there is thus an extra go-between business to help the principal business execute with the end purchaser. Case in point, Flipkart which is one of the effective electronic business entries and which gives a stage to customers to buy a wide choice of merchandise, for example, books, music CDs, and so forth

Along these lines, the display of leading business through electronic trade might appear to be uncomplicated and temperate, there are assortments of legitimate components that an electronic trade business should genuinely consider and remember before beginning keeping in mind doing its exercises.

1.6 JURISDICTION AND CHOICE OF LAW ISSUES

The issue of the purview is a basic one in electronic business. The request has reliably been which court acknowledge area in deciding an inquiry rising up out of an understanding between the social occasions, in context of the way that the get-togethers may be abiding in different purviews with different honest to goodness systems.

The issue in a general sense is one of Private International Law, and the appropriate Convention is the Brussels Convention on Jurisdiction and Enforcement of Judgment in Civil and Commercial Matters. This Convention is appropriate for the most part to those countries that have been affirmed it and have joined its acquirements into their own common laws. In any case, shockingly the Convention has not been confirmed in India according to the creator's information.

In connection to web gets, the general guideline is that ward is controlled by reference to the spot or country where the understanding is performed. Where there are a couple domains where the assention has been performed, the most pertinent locale will be the ward where the question really emerged. The spot of the habitation might likewise help in deciding the court that will include the purview. Where the gatherings have been domiciled in a contracting state which is under the Brussels Convention, the

precepts of the same Convention will be apropos, while the benchmarks of fundamental law will be fitting where the social affairs have not been domiciled inside a contracting state. Moreover, a man's living arrangement must be overviewed from the state's authentic perspective to make sense of if or not he is domiciled in a contracting state.¹⁷

There is a difficulty of the general tenet said above in connection to the shopper items, wherein that the buyers are not permitted to sue and to be sued in their separate home states.¹⁸ The pattern in electronic business has in this way been to glue on the site that an understanding coming about because of review a site is not an agreement for the offer of products or supply of administrations. This is clearly done to dodge the tenet for customers. It has, be that as it may, been held that arrangement of an agreement as an agreement of offer of merchandise or supply of administrations ought to be dictated by inspecting the terms of the agreements to find the substances.

The suggestion in this manner is that there will be an incessant inversion of the general standard for buyers, in particular that suit will happen just where the purchasers dwell, subsequent to most site proprietors are either suppliers of merchandise and administrations or experts.¹⁹ The courts have the forces to take a gander at the substance and substance of a trade on account of an inquiry, to make sense of in the event that it is contract of offer of items or supply of the administration.²⁰

The postal standard is wrong to an email contract. The spot where the email contract is made is the acceptor's place, and that is the vital spot for explanation behind the jurisdiction.²¹ The canon on an overall site contrast from the guidelines identifying with an email contract as in that there is no matching contract until warning of affirmation is gotten by the vendor and the understanding is made where the seller

¹⁷ Eg, for the web contracts are made in the UK, the areas of s. 41(7) of the Civil Jurisdiction and Judgment Act 1982 are connected to the determination whether the respondent is domiciled outside the contracting state.

¹⁸ Look into provision 13 and 14 of the Brussels Convention. Also, Section. 44, *Civil Jurisdiction and Judgement Act 1982* (UK).

¹⁹ *Robinson vs. Graves* [1935] 1 KB 579, 587.

²⁰ Generally the obiter dictum of Sir Iain Glidewell in the case of *St Alban's City and District Council vs. International Computers* [1996] 4 All ER 481, 493, where he opined that a transfer of a programme to a computer by a third party did not comprise a transfer of goods, as there was no title passed between them.

²¹ In Denning LJ, in *Entores vs. Miles Far East Corporation* [1953] 2 QB 327, 335.

gets notification of the affirmation, which is comparably noteworthy for purposes of domain.

A summit of the vexed issue of ward in electronic business is the choice of law to be material being referred to rising up out of purchaser contracts shut over the web. The multifaceted nature incorporated into the choice of relevant law has been depicted as takes after as takes after:

“The question of choice of law... is particularly difficult in the case of International computer networks where, because of dispersed location and rapid movement of data and geographically dispersed processing activities, several connecting factors could occur in a computer manner involving elements of legal novelty.”²²

Also, “Where parties to the internet contract are citizens of countries that have ratified the Rome Convention,²³ then the provisions of the mentioned Convention would be applicable to determine that which law is to apply in the matter of disputes between the parties. The Convention has also allowed the parties to agree *ab initio*²⁴ upon the law that will be applicable to whatsoever dispute may arise from the given transaction, and where there are no provisions made then the sections/articles of the Convention will be applicable.”

It is imperative to underline, in any case, that flexibility of agreement is a set up standard in the Law of Obligations and that the gatherings to a web contract can along these lines concur on the terms and conditions of the assent including the choice of laws to regulate the exchanges.²⁵

In any case, this is less demanding in the contracts which are not a standard shape contract. Where the social events have then contracted outside the obtainments of the Convention by yielding to the applicable law to speak to their trades, the complexities of making sense of what should be the choice of material law are totally stayed away

²² See OECD Explanatory Memorandum and Guidelines on the Protection of Privacy and Transborder Flows of Personal data, 1980 quoted in Gringas and Nabarro *Laws of the Internet* 45.

²³ The Rome Convention on *the Law Applicable to Contractual Obligations* 1980.

²⁴ From the beginning.

²⁵ *African Petroleum s. Owodunni* [1991] 8 NWLR (pt 210) 351. Also, see the provisions of s. 4 of the *Supply of Goods (Implied Terms) Act 1973* (UK) where a supplier's freedom to limit terms is now completely abolished. The act provides full protection for buyers in consumer transactions and qualified protection in non-consumer transactions.

from, and this is the most conceivable methodology in business exchanges over the web.

1.7 THE EVIDENTIARY ISSUES

The surfacing of electronic business and its developing acknowledgment have disturbed principal evidential issues, especially in connection to the verification of exchanges that are led through the web. The essential eccentricities of these issues and the entire part of perplexity that has additionally recognized their translation by the courts have revealed the weakness of the Indian Law on Evidence to adjust to the agreeableness of the exuberant slide of electronically - created confirmation that is the indication of electronic business exchanges.²⁶

The Electronic trade exchanges are the paperless exchanges which are made through the attractive materials, for example, a tape or plates. These are in a totally inverse position to a paper-based exchange that are exemplified in a changeless shape and is regularly communicated in words and figures which are normally confirmed by the marks. Such exchanges can subsequently not be changed without a modification on the substance of the archive.²⁷

One the very pinnacle of difficulties confronted by the courts in India is that of the acceptability of a PC produced proof. Out of sight of an electronic business, the data nourished into a PC and posted upon the sites of the merchants and the suppliers of merchandise and the administrations, when re recovered from the web, not would just be duplicates of such data but rather would, best case scenario be a gossip proof. **Section 88 A** of the Indian Evidence Act, 1872 lays about **Presumption as to electronic messages**- “The Court may presume that an electronic message, forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission; but the Court shall not make any presumption as to the person by whom such message was sent”. Therefore, herein the court does not take any responsibility as to determining who was the sender of the message? This has been solely left upon the interpretation of the Indian Courts. Also Sec. 101 to 114 of The Indian Evidence Act, 1872 will apply to all transactions under Sec. 11 of The Information Technology Act, 2000.

²⁶ See generally Osinbajo 1990 *Jus* 11.

²⁷ See Bender *Computer Law Journal* 703.

“Also few sections of The Information Technology Act, 2000 which can be focused here are:

- i. Sec. 4- Legal Recognition of Electronic Records.
- ii. Sec. 5- Legal Recognition of Electronic Signature.
- iii. Sec. 6- Use of Electronic Records and Electronic Signature in Government and its agencies.
- iv. Sec. 10A – Validity of contracts formed through electronic means.
- v. Sec. 11 – Attribution of electronic records.
- vi. Sec. 12 – Acknowledgment of receipt.
- vii. Sec. 13 – Time and place of dispatch of electronic records.”

Regardless, significantly more progress has been made in the English and American domains in the attestation of PC created verification through specific institution on PC evidence and legitimate activism. For example, in the US occasion of *King versus State Ex Rel Murdock Acceptance Corporation*,²⁸ the court yielded in n affirm a PC printout which was tendered by the outraged gatherings which completely showed the total aggregate which was owed to them by the defendants. The colleagues who recognized the whole portions were neither called ever, nor were the main records present in the branch working environments of the association made. The court on the other hand yielded the files and extended the evasion to the clamor evidence to cover the PC records. In a saying, a valiant presentation of the legal activism in the court along these lines proclaimed what as takes:

“The expenditure which the entire commercial world recognizes as safe shall be sanctioned and not discredited by the courts of justice.”

In an Australian locale, the issue of the worthiness of Computer made or created proof affirmation is without further ado spoke to by establishment.²⁹ In this manner, by the procurements of area 59(1) of the South Australian Evidence Act, the PC yields have been made now acceptable in both the common and the criminal procedures.

²⁸ [1996] 22 F2d 39.

²⁹ See s 59(1) *South Australian Evidence Act 1929* which copied s 5 of *the Evidence Act 1965* (UK).

1.8 CYBER CRIMES AND THE ELECTRONIC COMMERCE

Cyber Crimes have pretended numerous difficulties to the electronic business and have irrefutably made web exchanges extremely shaky and most powerless against the control made by the persons who are not in the least the gatherings to such exchanges. The compelling degree to which the web wrongdoing has destructed the business world was compactly caught by a learned author which as takes after:

“It is also predictable that the proliferation of commerce on the internet will be matched by an expansion of crime on the internet. The rise in the use of digital cash and credit cards over the internet provides a greater incentive to hack than ever before.”³⁰

Conceptually, an internet crime means the commission of the unlawful acts using a computer either as a tool or as a target, or as both. The most regular internet crimes include cracking and hacking, the identity theft, the sale of illegal or stolen articles on the internet, packet sniffing, and the creation of malicious codes such as viruses, where these offences are crimes in most advanced countries because of statutory regulations.³¹

In India, on a theoretical level, cybercrimes can be divided into three categories:

- i.** crimes in which a computer is the target of the offense,
- ii.** crimes in which a computer is used as a tool in committing the offense, and
- iii.** crimes in which a computer plays an incidental role in the commission of the offense.

³⁰ Gringas and Nabarro *Laws of the Internet* 211.

³¹ Eg, they are wrongdoings in the USA by excellence of the procurements of Electronic Communications Privacy Act 1988 and Computer Fraud and Abuse Act 1991. In Britain, they are wrongdoings by temperance of the procurements of the Computer Misuse Act 1990.

CHAPTER 2

EMERGING TRENDS OF THE ELECTRONIC COMMERCE AND CHALLENGES TO THE CONSUMER PROTECTION ACT, 1986³²

2.1 INTRODUCTION

The world is now moving from the conventional economy that concentrated on physical assembling of products to the new and fresh economy that focuses more on learning and data than anything. Electronic trade or electronic business is a vital aspect in such manner.

Electronic trade delivers a harder business rivalry, prompts formation of new commercial centers, quicker exchanges, and fast development in advancements. Electronic trade can be by and large comprehended as a framework or a strategy for directing business through an electronic media instead of through routine physical means.

Electronic commerce may also be defined as, “the use of electronic transmission medium to engage in exchange, including buying and selling of products and services requiring transportation, either physically or digitally, from location to location.”

It is favoured over customary techniques as it gives helpful getting to items that might somehow or another not be getting and prompts proficient exchanges for both buyers and e-retailers. Further, electronic trade has made conceivable low-esteem cross-outskirt exchanges on a scale that was already inconceivable.

Electronic commerce has received a huge popularity because of “the automation technique used by it. Due to ease in transactions, the number of e-consumers is growing at high rate and within a very short period it will defeat physical consumer”.

Today, electronic trade is influencing business. Electronic business not just trades data in the middle of purchasers and dealers of merchandise, additionally gives backing and administrations to shoppers. More shopper requests show up on the

³² Agarwal Kudrat, “*Emerging Trends of Electronic commerce & Challenges to the Consumer Protection Act, 1986*”, ACADEMIKE Lawctopus' Law Journal + Knowledge Center (ISSN: 2349-9796) February 14, 2015.

Internet than some other mediums today. It shows that the web has an immense potential to snatch numerous clients in a short measure of time, which thusly can turn into an objective business sector for developing firms. Web has transformed the economy so much that a large portion of the business exercises today are completed on the web.

All in all the privileges of a buyer as gave by local enactments such as Sec. 6 of the Consumer Protection Act, 1986 are likewise accessible to electronic purchasers on the grounds that no extraordinary condition has been set down in a large portion of the shopper laws with respect to appropriateness or non-pertinence of electronic exchanges.

The privilege of physical shoppers and e-purchasers are equivalent in principle however distinctive in operation or satisfaction because of contrast in the nature and spot of business or medium of business. Couple of one of a kind of the handy issues like spot of business, jurisdictional issues, non-accessibility of normal question determination framework and so on, unquestionably require unique measures that are not gave in the current customer enactments.

Considering these angles solid defensive components are required to be set up. In addition, adjacent to the administration's obligation to ensure e-purchasers, we being shoppers/clients and Internet clients are additionally in charge of keeping our electronic trade solid and safe so that e-business can be more dependable later on.

2.2 THE ADVANTAGES OF ELECTRONIC COMMERCE

Abundant of reasons can be recognized for this exponential development and change in the consumer patterns. Some of the reasons which can be enumerated are:-

- Affordability.
- Availability.
- Wider Choice.
- Speedier And Cheaper Shopping.
- Convenience.
- Better Bargain.

The total number of people who are becoming E-consumers is escalating day-by-day and the risks to which they are being exposed is also on the growth. These problems give rise to making of some protective measures which are indispensable and also require the speediest protective mechanisms.

The Electronic business is one of the largest things that has taken the Indian business by a huge storm. It is like creating an entirely new economy, which has a gigantic potential and is vitally changing the way in which businesses are done. It is advantageous for both the buyers as well as the sellers and this is a win-win situation at the very core of its unparalleled rise. Rising incomes and a greater variety of goods and services that can be bought over the internet is making buying online more attractive and convenient for consumers all over the country.³³ Following are the various benefits that have made online shopping all the more attractive³⁴:

For Customers-

- i. Convenience-** It is extremely advantageous to shop internet sitting in the solace of one's own place. Customers don't need to fight movement, discover parking spots and track through stores to discover and look at items.
- ii. Infinite Choice-** Rather than moving starting with one store then onto the next, virtual stores give entire scope of items from which a purchaser can settle on decision. The web regularly furnishes the purchasers with most noteworthy item getting and determination excessive by physical limits.
- iii. Price Comparisons-** With a solitary tap the information identifying with costs of the considerable number of brands of a specific item can be seen. Buyers can do similar surfing so as to shop sites. These days some unique sites arrive which just look at the costs of items accessible at various sites.
- iv. Availability of Consumers Review-** Clients regularly give their input/audits about the quality and cost of the items being obtained and utilized by them, which is of an extraordinary help for new clients to settle on their decisions.
- v. Flexible Mode of Payment-** Today all the internet shopping locales give the purchasers decisions in regards to installments including money down, so

³³ Malhotra, 2014.

³⁴ Pathak Poonam "Challenges of Online Shopping and Consumer Protection"2015 International Journal in Management and Social Science (Impact Factor- 4.358) ISSN: 2321-1784 Vol.03 Issue-09.

customers can make the installment after they are fulfilled by the item they are accepting.

- vi. **Round the Clock Shopping-** Virtual stores stay open 24X7. Along these lines, one can do shopping as indicated by their own particular time. It is intelligent and quick. Purchasers frequently can skim the merchant's site and can get the data about the item they yearning and after that request the items on the spot.
- vii. **Coupons and deals-** With each online business needing you, more coupons and arrangements can't be maintained a strategic distance from, which are absolutely incredible for clients. With real destinations that go about as retail establishment, you might discover things up to 80% off! Exploit the opposition and locate the best cost accessible.

For Bussiness-

- i. **“Increasing customer base-** The client base is each business fundamental concern, online or off. Whenever on the web, a business doesn't need to stress over getting the best property nearby, individuals from around the globe have getting to their items and can return at whatever time.
- ii. **Rise in sales-** By not dealing with a storefront, any business will have more deals online with a higher net revenue. They can redistribute cash to make the shopper shopping background quicker and more effective. While being accessible to global markets, more items will offer.
- iii. **24*7, 365 days-** In the event that it's snowing and the streets are shut, or it's excessively hot and muggy, making it impossible to try and venture outside in the late spring, or an occasion that each store nearby shuts, your online business is open for buyers all day, every day each day of the year. The entryways never close and benefits will continue rising.
- iv. **Expand business reach-** An awesome device on the web is-interpretation! A business online does not need to make a website for each dialect. With the right advertising, each customer around the world can discover the business site, items and data without leaving home.
- v. **Recurring payments made easy-** With a little research, each business can set up repeating installments. Locate the supplier that best suits your requirements

and charging will be done in a predictable way; installments will be gotten similarly.

- vi. **Instant transactions-** With electronic business there is not any more sitting tight for the check to clear, or a 30 day sit tight for certain different sorts of installment. Exchanges are cleared instantly or at most a few days for the cash to clear through the keeping money framework.”

2.3 DRAWBACKS OF ELECTRONIC COMMERCE

We see that the electronic business as a to a great degree star purchaser advancement, as It offers the shoppers a vast extent and an assortment of items, furthermore a wellspring of some significant data with which the customers can likewise ensure their own particular hobbies, despite the fact that it has a few downsides also:-

For Customers:

Technical Issues: Since the electronic commerce is thus related to the computer, the Internet and he personal information, hence following technical issues commonly occurs:

- i. **Online Identity Theft and Phishing-** Online fraud is the act of professing to be another person on the Internet. The reason can go from entirely innocuous exercises to a criminal action like taking somebody’s close to home data for one’s own monetary profit. Normally it includes phishing or online extortion for a man’s saving money data and utilizing that to request products or exchange cash to another financial balance. There is no particular legitimate structure that covers circumstances where one buy products on the Internet by the electronic transactions. In India, however the Government has advanced electronic trade forcefully, concentrating particularly on the conveyance of administrations, yet lawful controls for online offer of merchandise have yet to get up to speed with those for traditional shopping. The Internet permits individuals to imitate honest to goodness business all the more convincingly, achieve potential casualties effectively, evade recognition by looking after secrecy, and disappoint requirement authorities by finding (or moving when recognized) in remote locales that have no significant law or no genuine authorization.

- ii. **Privacy concerns-** The Internet and its capacity to marshal and sort endless measures of data, without the online purchaser notwithstanding knowing is another and powerful risk to customary security values.
- iii. **Online Jurisdiction-** Web is a correspondence medium without geological or national limits. Be that as it may, the purchaser insurance enactments are prevalently taking into account national and neighborhood limits. To be secured under the present laws in India at the season of electronic shopping, the main thing an e-customer needs to guarantee is that every one of the gatherings included in the exchanges are based inside of national limits where his civil purchaser assurance laws apply. Because electronic trade regards no outskirts, collaboration and coordination in universal law requirement, utilizing local enactments for insurance regularly gets to be troublesome.
- iv. **Insecurity-** It is related for purchasers to note that every single PC framework can't be one hundred percent secure; there is dependably a level of danger included in utilizing the Internet for purchasing merchandise. Subsequently, it requires a strict and easy to use law, which not just gives the security at the season of shopping, additionally ensures the enthusiasm of the e-shopper post exchanges.
- v. **Active Contents-** Dynamic substance alludes to projects that are implanted straightforwardly in website pages that make activity happen. The best known dynamic substance structures are Java applets, ActiveX controls, JavaScript, and VBScript.
- vi. **Malicious Codes-** PC infections, worms and Trojan stallions are illustrations of malignant code.

Another specialized issue which requires to be specified independently is connected with the licensed innovation right (IPR). A few words are trademark of some business association which can't be utilized by anybody for any reason. WIPO (World Intellectual Property Right Organization) was made to deal with these sorts of issues. ICANN (Internet Corporation for Assigned Names and Numbers) is the association which parently enlists all the space names. This association ought to have rundown of the considerable number of trademarks and copyrighted words to keep away from struggle. Two years prior this sort of contention emerged when Tata and Sons documented a body of evidence against online travel entry www.makemytrip.com for

utilizing exchange mark TATA as a part of www.oktatabyebye.com. Around one year prior MakeMyTriip.Com recorded a body of evidence against MakeMyHoliday.Com for utilizing some piece of its exchange mark makemytrip.

Taxation Related Issues: Electronic business is testing the sufficiency and major legitimacy of the standards of global tax collection, for example, physical vicinity, spot of foundation, and valuation. Understanding the capability of acquiring expense income from such sources, panels were shaped to deal with the tax collection issues. In India the High Powered Committee (HPC) was constituted by the Central Board of Direct Taxes.

Domestic Tax Issues: The HPC is of the perspective that local electronic trade does not raise new issues for direct tax collection. On the off chance that Indian tax collection guidelines are out of sync with those took after globally, it might support the avoidance of expense by little players and relocation of huge business out of India. The Group is of the perspective that so as to decrease avoidance, India ought to shape rules, which are steady with comprehensively acknowledged standards. Additionally, when principles have been casual and liberalization permitted taking its own structure, it has prompted a useful reaction from remote gatherings. Making a trust-based environment is superior to anything making a draconian enactment, since it will urge multinationals to keep outsourcing work to India. A vital delineation of the above reality is the liberalization of trade controls. It is seen that the Indian and in addition remote financial specialists have reacted well to the liberalization and there has been a higher outside trade inflow, which has been reflected in the current remote trade holds. From about chapter 11 levels in 1989-90, India today gloats of US \$57 billion stores.

International Tax Issues: In the period of globalization, liberalization and electronic trade, organizations are having diverse functionalities from various nations which make charge related issues. To address the issue on determination of private status, the HPC has considered the idea of 'spot of viable administration'. The Report expresses that this idea has no genuine option and must be utilized. The Group is of the perspective that the idea of 'spot of compelling administration' is not utilized as a part of the Indian charge laws and has a restricted part to play in deciding private

status while applying the sudden death round standard. For instance, an organization is dealt with as an inhabitant of India for Indian charge purposes and exhausted in India in admiration of its overall salary just in the event that it is either consolidated under the laws of India or completely oversaw from India. However, for this situation issue of twofold tax collection emerges. To unravel this Double Taxation Avoidance Agreement (“DTAA”) was presented, by the private status of a man would need to be resolved as per the residential laws of separate nations. In this manner, for the reasons of the said DTAA’s, all together for an organization to be inhabitant in India, it would need to be either fused in India or controlled and oversaw completely from India. In this manner, if just a small amount of the control and administration lies in India, an organization would not be viewed as an Indian occupant organization. Further, if, an organization is viewed as an inhabitant under the local laws of both the part countries to a DTAA, then the private status would be dictated by its place of compelling administration. Subsequently, “place of compelling administration” is a sudden death round idea and becomes an integral factor just where double residency exists. The issue of determination of the private status is vital, since, endeavors today are universally incorporated and chiefs are situated in various wards. The headway of innovation has empowered the key leaders sitting in various locales to partake in the choice making process through video conferencing and other like offices. Accordingly, it might so happen that a chief sitting in India could take an interest in control and administration of an alien organization. The HPC further expresses that where the spot of viable administration idea can’t be connected the source guideline of tax assessment ought to be connected. The Group feels that as opposed to tossing the idea of spot of compelling administration, the nations ought to attempt to plan viable tenets for applying this test in the connection of ecommerce. As perceived by the HPC, on account of cross outskirt business, pay inferred by a man might be exhausted in the source nation “having association with era of salary”.

At last, there is a subject nobody ought to disregard. The electronic trade upset, for all its guarantee, might augment the partition between the wealthy and have not's, in the middle of countries and even inside of country states. As we commend the guarantee of the computerized insurgency, we should likewise recognize the risk it postures to individual welfare and to the dependability of universal request.

Other Issues: Some of the other issues may be as per the following :

- i. **Quality:** While electronic business makes everything effortlessly gettingible, a buyer can't really touch items until they are conveyed to the entryway. It is imperative to see the arrival approach before purchasing. Continuously ensure returning products is an alternative.
- ii. **Delay in receiving goods:** Despite the fact that conveyance of the items is frequently faster than anticipated, be arranged for deferrals. A snow storm in one of the spot that might divert from the transportation framework in all of the cases. Thus, there is additionally a chance that your item might be lost or conveyed to the wrong address.
- iii. **Need getting to internet:** Web getting is not free, and on the off chance that you are utilizing free wi-fi, there is thus the shot of having a data burglary over an unsecure website. On the one of the off chance that you are draining of your open library, or you can't manage the cost of the web or the computer at home, it might then be best to shop locally.
- iv. **Lack of personal interaction:** While the standards and regulations of each electronic trade business is laid out for you to peruse, there is a considerable measure to peruse and it might be confounding with regards to the legalities. With huge or critical requests, there is nobody you can converse with up close and personal when you have inquiries and concerns.

For Business-

- i. **“Security issues:** While organizations attempt awesome endeavors to keep themselves and the customer safe, there are individuals out there that will break each firewall conceivable to get the data they need. We have all seen as of late how the greatest and most eminent business can be hacked on the web.
- ii. **Credit card issues:** Numerous Visa organizations will take the side of the shopper when there is debate about charging - they need to keep their customers, as well. This can prompt a misfortune for electronic trade business when products have as of now been conveyed and the installment is discounted back to the customer.

- iii. **Extra expense and expertise for electronic commerce infrastructure:** To make certain an online business is running effectively, cash must be contributed. As a proprietor, you have to know exchanges are being taken care of legitimately and items are spoken to in the most honest way. To ensure you get what you require, you will need to employ an expert to take care of any potential issues.
- iv. **Needs for expanded reverse logistics:** The foundation of an online business must be on point. This will be another expense to the business since cash should be contributed to guarantee legitimate treatment of all parts of purchasing and offering, particularly with displeased customers that need more than a discount.
- v. **Sufficient internet service:** In spite of the fact that it appears that everybody is presently on the web constantly, there are still zones in which arrange data transfer capacity can bring about issues. Before setting up an electronic trade business, make sure your region can deal with the telecom data transmission you should run viably.
- vi. **Constant upkeep:** At the point when a business has begun as electronic trade, they should be prepared to roll out improvements to stay good. While innovation develops, the frameworks that backing your business must be stayed up with the latest or supplanted if necessary. There might be extra overhead so as to keep information bases and applications running.”

2.4 CHALLENGES OF ONLINE SHOPPING

Today's headway in web suggests the adjustment in customer conduct. Shopping online has now turned into a typical structure for the buy of products. Despite the fact that web shopping is helpful with no confinement of time and space, it additionally have shrouded dangers in examination with the conventional method for shopping through strong shops.(Zuliu, 2010) The real difficulties being confronted by the purchasers in the event of internet shopping are as underneath:

- i. **Uncertainty of Trade Parties-** A com A typical concern voiced by shoppers is the trouble figuring out who they are managing on the web. At the point when a shopper strolls into a physical store, they consequently get from their surroundings the store's exchanging name, its area or address, and a methods

by which to contact somebody in the event of any issues. In the online world, that data is not acquired similarly.

- ii. Privacy-** Online protection is maybe the most obvious electronic business concern. The quick increment being used of electronic business is joined by ascend in the quantity of assaults against the security and protection of online exchanges. (Singh Jarnail, 2014) Consumers have questions about the security of individual data supplied to e-brokers. In the computerized economy, people might desert electronic “foot shaped impressions” or records of where they have been, what they invested energy taking a gander at, the considerations they have disclosed, the messages they sent, and the merchandise and administrations they obtained. The related protection issues emerge from the way that this PC processable individual data, whether consequently produced or not, can conceivably be gathered, put away, nitty gritty, individualized, connected and put to an assortment of employments in spots geologically scattered all around the globe, perhaps without client information or assent.
- iii. Uncertainty About The Place of The Trade-** Since the Internet has no topographical points of confinement, building up digital purview is yet another troublesome assignment. It won't be clear from the site as to where the supplier is or will be based.
- iv. Fair Trading-** An An essential component of a successful business sector is the procurement of full and precise data to empower shoppers to settle on reasonable choices about whether to purchase, what to purchase, how to purchase and from whom to purchase. Data is important for the compelling activity of customer decision furthermore engages purchasers to comprehend and practice their rights. At the point when there is no individual contact with the retailer and the customer is paying for merchandise before conveyance there are expanded worries about the quality and suitability of the products, whether they will be conveyed on time (or ever), what techniques are set up for discounts and grumblings and how the shopper can get in contact with the dealer. These worries and instabilities might be amplified when dealers are situated in different wards.
- v. Hidden Costs-** Another issue basic in internet shopping is that buyers might acquire additional costs which they were not anticipating. Those expenses could incorporate conveyance charges, taking care of expenses, assessments,

traditions obligations, or intermediary expenses. This is an intense issue for those customers who can feel they have been deceived when they get higher bills than anticipated. In a store, a mark or tag for the most part expresses the aggregate cost obviously. On the web, the shopper might get to be confounded when the aggregate expense is not showed plainly at the season of requesting.

- vi. **Doubts Regarding Returns/Refunds-** If there should be an occurrence of internet shopping buyers are constantly agonized over what will happen if something turns out badly, for example, the merchandise not arriving or arriving harmed. At the point when merchants are not near the purchaser or when they don't have a physical store that clients can visit, the procedure is confused and unverifiable.
- vii. **Fake Sites-** Web is overflowed with fake destinations which frequently represents an issue for clients. New destinations bringing more up to date offers pop from no place getting the fancies of the clients. It is constantly troublesome and mistaking for a purchaser to check the validity of the locales and their offers.

2.5 THE MEASURES FOR THE PROTECTION OF ELECTRONIC COMMERCE

In this age of electronics there is thus the a need to protect consumer's interest and subsequent are the areas of essential importance for the efficient protection of e-consumers.

- i. **Correct Information-** An educated purchaser is independent to care for her/his own advantage than an ignorant customer. Fitting data on the items is imperative for e-shoppers as that can help them to evaluate the advantages and dangers of going into a specific exchange. In the event that the purchaser is now mindful of such data, then there won't be pointless dissatisfactions; henceforth consequent question will be kept away from.

The Appropriate data of the items goes about as a surrogate for the genuine living's 'touch and feel' which for the most part happens amid the disconnected from the net exchanges (offline). In this way, the legitimate rules which requires the e-retailers to give point by point data about their items, their business process, and so forth is not especially intense for the electronic

retailers. They should be providing information about the under mentioned following:

- E-Retailer- This should be including the information regarding the identity of the e-retailer, place of registration, contact details, physical location, postal address, telephone number and e-mail address. This information will thus allow them to calculate the reliability of the electronic retailers.
 - Product: The Sellers must be providing an accurate and aptly detailed depiction of the product, it's characteristics, limitations, uses, compatibility, and also as well as the need for services and maintenance and its schemes, the price of the products, which includes the applicable taxes and surcharges, where all costs are itemized, , warranties and guarantees, the applicable currency and any after-sales services.
 - Sales Process: The principles administering the business procedure are extremely hard to comprehend for a shopper. E-retailers ought to give data about the business process like the specialized strides to be taken after to close an exchange, the conveyance time and strategy, request following framework set up, installment process, gatherings rights to scratch off, end or withdraw, and in addition material discount, trade and returns potential outcomes and about the efforts to establish safety connected to the exchange.
 - Terms of the Contract: Dealers must give their buyers the terms of the agreement communicated in clear, unambiguous and basic dialect.
 - Information about the use of Consumer's Personal Data: At least, e-purchaser assurance must require e-retailers to give existing and potential shoppers with point by point data about how it gathers information, who will have getting to the information and how the information will be kept safe and so on.
 - Confirmation of the Transaction: E-retailers ought to give purchasers a brief affirmation of the exchange when the request has been set. That affirmation ought to contain data recognizing that the request has been acknowledged and data in regards to expected conveyance time. Besides, the affirmation ought to be printable and conceivable to store in electronic structure.
- ii. Fair Contracts**- A few shoppers basically don't feel that the terms and the conditions are lawfully tying and most customers are inadequately prepared to comprehend the centrality of the terms of the agreements they go into.

Deliberately or subliminally, they depend upon the legitimate framework to shield them from out of line contractual conditions.

Numerous standard contracts contain complex lawful provisions, for example, decision of discussion statements and rejection conditions that customers might battle to completely grasp. Subsequently, they for the most part don't read the terms and states of the agreements they go into. Further, purchaser insurance laws have made buyers who don't take an ideal opportunity to try to secure their hobbies

- iii. **Adequate Regulation of Unconscionable Conduct-** Attractive purchaser insurance regulations should sufficiently secure shoppers against unconscionable behaviour by merchants. A further concern emerges identifying with the absence of force of purchasers to arrange terms.
 - It ought to be guaranteed that e-merchants don't use deals forms that befuddle buyers into tolerating absurd terms.
 - Consumer assurance ought to contain exceptional standards ensuring shoppers who have restricted legitimate limit and their gatekeepers, as it is difficult to know whom you are contracting with.
- iv. **Adequate Regulation of Product Quality and Suitability-** The sold items must meet satisfactory quality and wellbeing principles. On the off chance that the shopper has said the reason for which an item must be utilized then, e-retailer ought to just convey items suitable for the reason portrayed by the buyer. Additionally, items gave must compare any depictions gave by the retailer Consumer.
- v. **Cancellation/Return/Refund Policies-** Dealers ought to give data to shoppers about their cancelation, return, and discount strategies, including the time in the wake of going into a coupling commitment after which an accessible cancelation, return, or discount might be made. In the event that there is no cancelation, return, or discount right, this ought to be expressed preceding fulfillment of the exchange.
- vi. **Fair Dispute Resolution-** A multi-faceted methodology is important to guarantee a reasonable determination of a question between an e-retailer and an e-buyer. Law ought to give customers reasonable, opportune, and moderate intends to settle question and acquire change. In this manner it must give shoppers a sensible parkway for making legitimate move against the

vender/administration supplier, yet with the option or earlier stride of a more suitable debate determination framework.

- First, to be compelling, a purchaser insurance plan must guarantee that the customer, in an electronic trade exchange, can make legitimate move at her/his place of habitation or residence.
- Second, the buyer in an electronic trade exchange ought to dependably be permitted to depend upon the customer security gave by their nation of home or habitation.

A satisfactory getting to guidance and help where they can make legitimate move is crucial for customers. This prerequisite can be fulfilled by an administrative office or office working with buyer assurance questions. Elective Dispute Resolution System is getting to be mainstream these days. It has been received by corporate houses to determine their debate outside courts with less strict principles and lower expenses. The procurement for ADR framework ought to likewise be supported by enactment security e-purchasers right.

2.6 STEPS FOR SECURE ONLINE SHOPPING

By simply clicking a mouse or touching a screen customers can purchase almost any item on the web. The expression of ecommerce empowers shoppers to shop at a great many online stores and pay for their buys without leaving the solace of their home. Be that as it may, the same thing can turn out badly along with its endless advantages there is darker side to web purchasing. Pretty much as customers ought to be ready while obtaining from block and-mortar stores, online customers likewise should be wary while acquiring on the web. Taking after are the rules to make internet shopping knowledge charming and safe.

- i. Shop from Secure Websites-** Clients ought to dependably make internet shopping from secure sites. These sites use encryption innovation to watch individual data like Credit Card Number and so on. Customers can simply check the security of the site by taking a gander at indication of <https://>. The “s” that is shown demonstrates that the site is secure.
- ii. Check the Credibility of the Website-** It is constantly fitting to shop from the locales, which one definitely knows. In the event that the site or the organization is new, a shopper ought to confirm the legitimacy and validity of

the organization. By checking the site address one can ensure that they are managing the right organization.

- iii. **Check the websites Secret and Privacy Policies-** The clients ought to investigate the protection and security strategies of the site and ensure that the individual information they are sharing on the site is not being imparted to outsiders or associate organizations.
- iv. **Disclose Only the Necessary Facts-** While submitting a request it is prudent to give just the vital data. The destinations might get some information about their ways of life, monetary status and decisions and inclinations to focus for showcasing purposes. The brilliant standard is not to answer any inquiry they feel is required to handle their request.
- v. **Secure Password-** The secret word utilized for the site ought to be secure and ought not be imparted to any one and ought to be habitually changed. Diverse passwords for various sites ought to be utilized and a solitary secret key ought to never be utilized. Secret key with blend of alpha numeric keys and extraordinary characters ought to be utilized.
- vi. **Keep a Hard Copy of Your Order-** It is constantly prudent to spare and to get a print out of the duplicates of the request put online for your record and this record ought to be protected till the guarantee time of the item.
- vii. **Check for Cancellation, Return and Complaint Handling Policy-** Make sure to check the truths about as far as possible for the arrival or cancelation, discount of cash and the conditions when one can practice their guarantee rights. Additionally confirm from the maker that whether Warranty is material on the items sold from that site.
- viii. **Be Cautious with Attractive Offers-** In some cases to charm the clients organizations post such a large number of appealing offers that shoppers discover hard to stand up to. It is ideal to check the legitimacy of these offers and shrouded terms and conditions which won't not be plainly said.

2.7 ONLINE SHOPPING AND CONSUMER PROTECTION

Web shopping has made the general population mindful of the presence of the World Wide Market put that is dependably simply a tick away. The web has begun another time of twenty-four hour getting to products and administrations, moment buys and internet shopping. The main things quickening speedier than the utilization of the web

are the new dangers that are connected with the medium's business applications. In spite of the fact that web exchange have expanded proficiency in exchanges and expanded gettingibility for buyers, there exist numerous defects that have not yet been acceptably managed. While development in the electronic business industry is clearing the nation over, there gives off an impression of being lacking supervision (both administrative and non-governmental) and the laws managing quality control for these new organizations and this are what makes the quick development disturbing.³⁵ Internet shopping is constantly helpless against substandard items, false conveyances and different fakes. Appealing deals, affecting and misdirecting commercials and online networking posts, draw in a large number of purchasers consistently. There are innumerable instances of online misrepresentation reported in India, where the online purchasers are being tricked by the online dealers. In 2013, there was a case around a Flipkart purchaser who was conveyed two stones rather than an iPod costing Rs 20,000. After that, there was a disturbance when a Snapdeal purchaser was sent 2 coconuts rather than the Slazenger shoes he had requested for himself. The most latest incident involving Mr. Laxminarayan Krishnamurthy from Mumbai took an overall different turn when he had posted pictures of the Vim bar which he received instead of a Samsung Galaxy phone which he had ordered over Snapdeal through Facebook.³⁶ These sorts of occurrences have made it important to offer some sort of security and insurance to the online purchasers. When all is said in done the privileges of Consumers as gave by local enactments such as Section 6 of the Consumer Protection Act, 1986 are additionally accessible to electronic customers. The Rights of the physical and the online consumers are equal in the theory but are different in operations due to the difference in the nature and the place of the business or medium of business.³⁷ The Consumer Protection Act, 1986 was authorized with the motivation behind engaging buyers to tackle the might of substantial enterprises and keeping deceitful specialists from exploiting the powerless position which buyers are naturally put in under the age-old Indian legal framework. It set up unique tribunals, less difficult techniques and established exceptional procurements to offer purchasers some assistance with getting a superior dealing position versus makers and retailers,

³⁵ Virk Raman, *The Problems of Consumer Protection in Online Transactions*. (www.prezi.com) 2014.

³⁶ Sikarwar Deepshikha, Consumer Protection Act may get more teeth; new law may help you sue online retailers from your city. ET Bureau 2014.

³⁷ Nair Gowri and Aiswarya K.M, *Emerging trends of Electronic commerce and challenges to the Consumer Protection Act, 1986*. School of Legal Studies CUSAT 2015.

and so forth. Be that as it may, since this law was established more than a quarter of a century prior, it is not all around prepared towards insurance of shopper's rights in the advanced period. It is hard to utilize the Consumer Protection Act, 1986, to determine internet shopping grumblings, given the requirement for narrative proof (in web buying, the accessibility of narrative confirmation is confined). The Information Technology Act, 2000, last corrected in 2008, mirrors the developing significance of the Internet in a normal Indian's life. The principle issues that are investigated incorporate hacking, protection, controlling power and disciplines for wrongdoers. Somewhat, this law does not focus upon the interest of the online shoppers, and is, thus therefore, of limited use to the consumers who face a lot of problems while shopping online.³⁸ This has rolled out improvements in the current Consumer Laws to guarantee online buyer's security in India all the more critical. To help online clients, the legislature is wanting to redo the Consumer Protection Act. The service of buyer undertakings is taking a shot at this redo to protect enthusiasm of buyers in our current reality where shopping is not compelled by geology. The current law, which appeared in 1986, can't viably manage challenges postured by new financial, business and innovative improvements. These corrections will prompt the arrangement of the National Consumers Protection Authority, an administrative body to shield Indian shoppers from false and out of line exchange rehearses. Once this proposition gets the endorsement, customers situated in any part of the nation will have the capacity to approach their neighbourhood purchaser court whenever against any administration supplier or products. Customer Protection Laws will likewise cover online deals and will give assurance to online purchasers. This activity will help the administration to keep a beware of E-retailers and will guarantee client security in online deals. These revisions to Consumer Protection Laws should roll out noteworthy improvements in web offering and will serve more elevated amount of security to the purchasers.

2.8 RECOMMENDATIONS

The Technology is developing faster than the law and it will always continue to be one step ahead of the law. Thus, the electronic transactions in the current set up are thus full of the insecurities and the uncertainties because of the absence of the proper legal mechanisms. Now, to survive with the technological advancement we now have

³⁸ Saroja S, *The Risks in Online Shopping*, The Hindu 2015.

to take the help of the technology- as remarked by Charles Clark once “The answer to the machine is in the machine”.³⁹ To be sure, the ideal answer to the mechanical misuse is the utilization of mechanical advancement. Since existing shopper laws of India can’t secure e-customers rights legitimately, the buyer’s must be more mindful about the utilization of e-business sector. They ought to recollect and watch taking after at the season of electronic dealings for smoother and more secure exchanges over Internet.

- E-mail locations can be set up falsely, thus sending clients subtle elements scrambled by email are still no insurance of security. Sending subtle elements through a site structure gives some additional security as a result of the all the more demanding prerequisites for enrollment of Internet destinations.
- Keep every one of the subtle elements of buys by printing the receipt. In the event that client needs to grumble at a later date, these pages will give the data required.
- Accounts ought not be kept open after exchange for quite a while as this gives programmers a chance to hack the secret key or pertinent data from clients PC or demolish client's vital data.
- Never buy things from another site or entrance when there is a sensible possibility of suspicion.
- Whenever conceivable clients ought to dependably decide on Cash-on-Delivery choice as opposed to utilizing Visas or check cards. This aides in securing them against misrepresentation.

³⁹ Charles, Clark, *The Answer to the Machine is in the Machine*, in: P. Bernt Hugenholtz (ed.), *The Future of Copyright in a Digital Environment*, The Hague: Kluwer Law International, p. 139.

CHAPTER 3

THE INFORMATION STRUCTURE

The Internet and electronic business have prompted the bringing up of troublesome issues for the family unit political economy. Issues here consolidate those of getting, cost, preparing or e-capability, security, and the control. How or who to control? How to ensure getting at sensible cost? How to handle the creating electronic detach? What developments are required and what standards are to be set? Making nations like India need to discover arrangements as well as the methods and assets to execute them.

Achievement in the computerized transformation is reliant on a few key preconditions. A well working, present day telecom base and a palatable appropriation of power, alongside getting to PC equipment, programming, and servers are the fundamental specialized prerequisites for electronic exchanges. For electronic business to be effective and develop, in any case, equipment and physical framework are not sufficient. What is here required is an “information structure”, like;

- the environment and the structure for the electronic trade that incorporates a legitimate lawful and an appropriate budgetary system,
- the business and political environment contributing in its advancement, and
- The limit or the HR expected to manage it.

3.1 AN ELECTRONIC COMPATIBLE LEGAL AND FINANCIAL FRAMEWORK

All over the place all through the world, globalization and the new information and correspondence advancements that are revamping the business appointment circuits are reinforcing the linkages in the middle of interior and outer exchange. Notwithstanding creating nations like India, hence, can no more treat the inward and outside segments in segregation. The lawful and money related system for one area specifically influences the other segment. While the regulations and rules which manage business operations remain by and large close-by or national in expansion, the improvement of electronic exchange will progressively raise doubt about the capacity of open powers to force their rights on national markets and universal exchange by their organizations and residents.

3.1.1 Legal Framework

Legitimate issues incorporate two essential zones those of regulation, and those of making lawful frameworks perfect to and for electronic trade. The last mentioned, however saw as being facilitatory in substance, requires the previous for it to be adequate. There are truth be told numerous things that legislatures may sensibly need to manage on the Internet. They integrate not simply indisputable attacks to humane values, for example, kid explicit entertainment and actuation to racial scorn, additionally buyer insurance, the protection of licensed innovation rights, and tax collection. These are all issues on which nations administer as of now. The current tenets and laws would and should apply to the Internet and electronic exchange. The issue is not that whether the Internet ought to be managed or not, rather how it is to be finished. This altogether new variety of the correspondence represents a totally various new sorts of issue for the controllers.

A honest to goodness structure for electronic business has been given by the Information Technology Act, 2001, making India simply the twelfth country general which has such a careful sanctioning for electronic trade set up. This Act likewise impacts important corrections in the Indian Penal Code, the Indian Evidence Act, 1872, and the RBI Act, 1934 to align them with the necessities of computerized exchanges. (Comparable changes are being gotten ready for the Companies Act, 1956 to likewise encourage electronic trade and e-administration.)

The IT Act basically tries to address three regions or saw prerequisites for the advanced period:

- i.** to make conceivable electronic trade exchanges both business to business and business to buyer;
- ii.** to make conceivable e-administration exchanges both government to subject and national to government;
- iii.** to check digital wrongdoing and control the Internet.

Rules under the IT Act have been detailed and a national controller for authorizing the Act designated. This controller will manage the affirming powers that will issue the advanced marks and the frameworks for confirmation. These strides should be coordinated by sorting out the issues of security and installments. Security and

verification courses of action should be perceived and acknowledged all inclusive. On the initially, however governments, (for example, the US government) have made a few strides, nations like India are yet to create solid advancements. (US organizations creating them are in the blink of an eye confined by their Government from the passage of such advances and that is an issue that ought to be tended to at the overall level.)

Security and organize procurements in the IT Act, principally those identifying with digital wrongdoing, have been condemned by the media and free-talk advocates. Things being what they are, the benefit of the right to speak freely and the privilege to data are major to popular government and endeavours to control IT and electronic exchange must not give off an impression of being tries to check the advancement of the Internet (as a couple of countries in the Middle East and China are attempting to do). The wide and clearing powers given to the Police (without a warrant or legitimate graph) have been reviled by a few specialists and also by NASSCOM. The Government should be amazingly cautious around there as endeavours at controlling obscenity ought not be seen as, or result in, making obstructions to the advancement of the Internet in India.

With the presence of new security instruments, for instance, electronic/advanced marks, authentications, and so on, the eventual fate of electronic business lays on privacy. Another aspect of security is protection, which is firmly identified with information accumulation, understanding, dispersal, and course. Guidelines are required to administer the route in which individual data is procured, revealed, and utilized on-line.

One of the reactions leveled against the IT Act is that it doesn't have any proviso guaranteeing security and insurance of the on-line customer. Legal feeling is isolated on this point, with a couple of authorities battling that the present Consumer Protection Act, 1986 is totally extensive and can be extended to cover on-line purchasers in like manner, as, things being what they are, on-line shopping is essentially one more technique for executing business. Be that as it may, regardless of the possibility that this will be the situation then there are various perspectives which are impossible to miss to the computerized exchanges, for example, the privacy, the

electronic installments, the exchange information, and so forth that prompt the issues emerging in the internet.⁴⁰

A worldwide agreement on the security insurance is creating around the OECD⁴¹, rules upon the assurance of protection and the transborder streams of the individual information, which encapsulates the well respectable standards of reasonable and genuine data rehearses. These taking after rules could frame the main premise of building up the protection and the secrecy in the Indian electronic trade environment.

A universal agreement on the security insurance is creating around the rules upon the assurance of protection and the transborder streams of the individual information, which encapsulates the well respectable standards of reasonable and genuine data hones. These taking after rules could frame the main premise of setting up the security and the privacy in the Indian electronic business environment.

A measureless part of the Information Technology Act as proclaimed, manages native connection with government. Positively, a legitimate and sweeping mission towards e-administration. In any case, there are a few obstacles before this turns into a reality. The fundamental being that administration offices do not have the equipment for electronic exchanges as well as need to reorient their frameworks and systems before they are prepared to interface through electronic records.

3.1.2 Electronic Governance

Electronic governance implies some action and some commitment of the state and state's agencies at two distinct levels:

- i.** It basically involves the promotion of the given information and the communication technologies and, mainly, electronic commerce, on the one hand, and
- ii.** The adopting of these technologies and all they involve in the matter of a completely new type of commitment, open systems and use of the medium of the Internet for government business, citizen interaction, and most important, for development.⁴²

⁴⁰ *Economic Times*, 14 August 2000, IT Act leaves cyber consumers out of its purview.

⁴¹ Organization for Economic Cooperation and Development .

⁴² ITC Executive Forum (2000).

Luckily today a few e-administration undertakings are in progress in a few conditions of India. The presentation of e-administration could end up being a standout amongst the most expansive and dynamic strides in India. Not simply does it hail a surety of government to the usage and presentation of IT for efficiencies in citizen bolstered associations and local interface anyway it could in like manner be the most solid weapon against the rising and developing advanced partition.

A portion of the difficulties in such manner are:

- Handling the primitive standpoint information is seen as power and those having it don't wish to surrender it.
- Implementation requires to change the organization and re-outlining of government associations, and less of development.
- Transparency, that is, the matter of making the administration dealings (including acquisition) clear and along these lines decreasing defilement.
- The Labor and the Union issues in government (as these are seen to be a threat to developed strategies and individual stakes).

Execution of e-organization is plainly not going to be basic or smooth. There is still a ton of confusion among executing workplaces at various levels in appreciation to what unequivocally electronic exchange and e-organization are and how to go about it. Part of the issue is that some of these affiliations have deficient inward PC staff who have their own specific confinements in appreciation and executing e-organization arrangements or in serving as a platform between the affiliation and master outside affiliations. There is in like manner the prerequisite for compromise and joining of organizations offered by different divisions so that a truly single point administration can advance. Broad scope of rustic territories is likewise going to require some serious energy.

Regardless of these imperatives, the activities here are vital. By using the Internet as a gadget for "electronic organization", the earth for electronic business headway itself would be supported and sustained. The reason here is that in propelling the business on-line, the legislatures will empower the transport of information, items, and organizations. This will then pass on additional activity crosswise over information

systems, which, thus, will serve to give the incomes and venture method of reasoning expected to energize further framework improvement.

3.1.3 Financial framework

One of the principle worries of creating nations are the apparent threats of remote trade surge by virtue of electronic business, i.e. through the buy of products abroad.

A review study shows that the higher the advancement of electronic trade inside of an area/nation, the higher will be the buys from inside. All together, thusly, to empower electronic business improvement, managing an account methods inside of creating nations should be adjusted and made good to computerized exchange exchanges, so that shoppers and purchasers can without much of a stretch make buys locally through the Internet.

3.1.4 Legal validity of the electronic transactions in India.

Alongside changes both in the contract and organization law, electronic business would likewise require a money related and managing an account system that considers electronic installments and exchanges. This would incorporate necessities for affirmation of reports, electronic marks, classification, and protection. Along these lines, India's requirement is to put set up mutually the electronic system (among money related establishments) and additionally the administrative structure to consider such exchanges. Keeping money regulations (and belief as a outcome of the adjustments within the RBI Act) along these lines should be conformed to the new configurations and necessities. The IT Act in this manner needs coordinating usage at the financial administrative level.

Installment doors for electronic business exchanges are a standout amongst the most fundamental prerequisites for building up and creating electronic trade. These should be entrenched and reinforced in India. Today a portion of the managing an account organizations are putting forth this administration with global joint effort, yet for this to really make an imprint, electronic asset exchanges and a charge card society must advance and set in India.

There are different lawful issues identifying with arrangement and legitimacy of electronic exchanges, for example, online contracts and approval issues which are overseen hereinafter:

- i. **Formation of an Electronic Contract:-** The most generally perceived sorts of e-contracts are snap wrap, look wrap and analyst wrap contracts. The terms and conditions in such contracts are made available to the contracting party in a structure that is essentially not the same as the standard paper contracts. In “Click wrap” get, the social event’s concurred affirmation is taken by technique for watching out for an “I acknowledge” tab with the material box that allows enduring get-together to see the terms and conditions. If there should arise an occurrence of ‘Browse wrap’ understanding the simple utilize (or skim) of the site makes the terms tying on the contracting party. If there should be an occurrence of ‘Shink wrap’ assenting the contracting gathering can read the terms and conditions when opening the crate inside of which the item (usually a permit) is stuffed. Such understandings are important in the setting of electronic trade generally on account of the sort of merchandise partner with therapist wrap assentions.
- ii. **Online Contracts Validity:-** All the electronic contracts in India are administered by The Indian Contract Act, 1872 administers which entomb alia order certain pre-necessities for a legitimate contract, for example, free assent and a legal thought. The inquiry which should be inspected is the manner by which the necessities of Indian Contract Act would be satisfied in connection to e-contracts. Further, the Information Technology Act, 2000 (‘IT Act’) gives stronghold of the legitimacy of e-contracts.

As indicated by Indian Contract Act, 1872 a bit of the basic requirements of an authentic contract are according to the accompanying:

- a) The contract should be entered with the free consent of the social occasions;
- b) There should be honest to goodness thought for the assention;
- c) The social affairs should be gifted to contract;
- d) The object of the assention should be honest to goodness.

The terms and conditions connected with electronic trade stage are of most extreme significance in guaranteeing and choosing that electronic business exchange meet

with requirements of a honest to goodness contract. Unless expressly blocked snap wrap assentions would be enforceable and generous if the necessities of genuine contract as per Indian Contract Act, 1872 are fulfilled.

There is no essential under the Indian Contract Act to have formed contracts physically checked. In any case, specific statues do contain signature requirements. Further, the method for electronic exchange is that it is for all intents and purposes difficult to check the time of any person who is executing online and which act issues and liabilities for electronic business stages in light of the fact that the position under Indian Law is that the minor is not skilled to go into contract and such an assention entered is not enforceable against the minor.

In India, every instrument under which rights are made or traded ought to be stamped and stamping of the instrument further depends on upon specific stamp commitment institutions approved by different states in India.

Standard Form of Online Contracts are Unconscionable:- In India there is no all that much made law on the theme of whether standard sort of online understandings are unconscionable. Be that as it may, the courts of India as indicated by Indian Laws already managed occasions where contract terms including standard structure contracts were organized between social events in unequal wheeling and dealing positions. Certain obtainments of Contract Act oversee unconscionable contracts, for instance, when the idea in the understanding or question of the assention is against open system. In such cases the agreement itself can't be legitimate.

The courts can put the weight on the person in the fundamental position to show that the assention was not impelled by the undue effect:

In the landmark case of "*LIC India vs. Consumer Education & Research Center*",⁴³ the Hon'ble Apex Court of India translated a protection arrangement issued by Life assurance organization of India by getting certain parts of open reason. The court noticed that "in dabbed line contracts there would be no event for weaker gathering to deal as to accept to have measure up to haggling power. He has either to acknowledge or leave the administration or products regarding the specked line contract. His

⁴³ 1995 AIR 1811, 1995 SCC (5) 482.

alternative would be either to acknowledge the nonsensical or uncalled for terms or do without the administration until the end of time.”

It is very critical to have a well comprehensively considered terms which profile online contracts keeping in mind the end goal to ensure that adequate open door is given to the customers to adapt themselves with the terms thereof. Other than the above there are in like manner diverse other legal, charge and managerial issues more especially Security Issues, Consumer Protection Issues, Intellectual Property Issues, Content Regulation, Intermediary Liability, Jurisdictional Issues and issues identifying with tax collection which should be taken personality a top priority while managing electronic business exchanges.

3.2 ELECTRONIC ENABLED HUMAN RESOURCE

Electronic exchange is changing the way we cooperate. Today’s data bombshell, as it were, depends on upon insightful capital. We have moved from a current economy where machines commanded profitability, to a data based economy where scholarly substance, for which there are no geographic limits, is the overwhelming wellspring of quality included. On the off chance that creating nations are to profit by this new mechanical and monetary blast that the development of electronic trade speaks to, they would need the most essential segment human asset set up.

Today the prevalence of the ICT insurgency has brought about emotional changes in livelihood designs, expertise sets required, and the scope of chances for work and financial headway over the entire world. Specifically, an uncommon window of chance has opened up for creating nations. The way to accomplishment here lies in understanding that the business sector for some sorts of HR is progressively getting to be worldwide. The ICT innovation is quickly contracting the scope of human exercises that require physical migration of persons, and in this manner open door is moving to those nations which can give the sort of HR that are required by the worldwide economy. Opportunity will also go to those who understand and appreciate these emerging global trends in human resource requirements and prepare for them. At present, India has this asset in plenitude, and chances of the new economy could give it phenomenal results. To warranty adequate human capital, be that as it may, star dynamic approaches and interests in training (particularly specialized) are

expected to understand the potential. All things considered, to be e-proficient, residents initially should be educated.

As electronic business creates and the more propelled phases of business trade (i.e. contracting, installment compromise, inspecting, and so on.) are completed electronically, more particular abilities will be required. Notwithstanding to surf the Internet for an item or administration, fundamental nature with the PC and learning of the Internet is required. From Website illustrating, to electronic credit organization and programming and gear upkeep - all require aptitudes that may not be so effectively accessible. Limit working in the field of data innovation, in the information of the presence of a worldwide business sector for such aptitudes, is along these lines critical. The advancement of electronic trade, accordingly, puts a premium on the improvement of instruction and preparing strategies, to guarantee that preparation organization's educational module address with the issues of industry.

Beside IT labourers, there is additionally a gigantic movement happening in cushy employments all around. Innovation is rethinking a number of these employments and making them progressively area free. Numerous organizations are building up call-focuses and benefit bolster focuses in nations such as India and Philippines where expenses are essentially lower. A huge number of such occupations are moving all at once over the globe, on account of advancements by IT-empowered administration organizations. Michael Dertouzos, outsourcing expert of the Massachusetts Institute of Technology, gages that outsourcing of cushy occupations from Western countries to India could realize a development of 50 million clerical employments from the West to India in the accompanying couple of years. At an ordinary pay of US \$20,000, they could incorporate a shocking US \$1 trillion to the country's GDP! As per a more preservationist forecast from NASSCOM, India will utilize 1.1 million individuals and acquire US \$17 billion from IT-empowered administrations by 2008. For these vocations, by and large English-speaking graduates with some central PC planning are required and, thusly, the work availability will be much less demanding. Not at all like programming, where the lack of labour was getting to be intense (until the new economy retreat occurred), IT-empowered administrations have sufficient extension to build yield, even at the top end. As said some time recently, the retreat is additionally more averse to hurt such organizations, and might even help them as

these organizations are putting forth to lessen the expense of back-office forms that are key

3.2.1 What needs to be Done?

For India, the effect of every one of these progressions will be sensational. India should satisfactorily get ready for and guarantee its e-availability for them. Regardless of the worldwide lull, nations over the globe (US, UK, Germany, France, Italy, Japan) are as yet offering unique visas for pulling in Indian programming engineers. In spite of the fact that an awesome open door for these people and also helpful for the nation over the long haul, genuine arrangements are required in India to build the yield of gifted experts keeping in mind the end goal to take care of the developing demand inside of the nation itself, or the deficiency impact our own particular development in electronic business. (Despite the fact that the present retreat in the US is dialing down of the weight, as per a few specialists an inversion is relied upon inside of 6 months to a year.)

The issue of “mind channel” has been discussed for a considerable length of time. Numerous however see it today as a “cerebrum pick up” by virtue of the huge advantages in the IT segment that these expert have and are conveying to the nation. In any case, a more difficult issue that should be tended to at the worldwide level is the thing that could be alluded to as the surreptitious making of “cutting edge contracted work”. The created world, so that it can meet its own particular deficiencies and prerequisites, chooses both the timing and conditions of importing such specialists from making countries. In times of subsidence, they shed such occupations and repatriate the specialists. Should not this be organized between governments on regularly favorable terms and conditions? In India, we require a national verbal meeting on this issue moreover raise it at the multilateral level at relationship, for instance, the WTO from one point of view, while putting set up a motivation to pick up from the financial open door, on the other.

The nation over, the prerequisite of programming architects is being tended to by arrangements to twofold the limit in the State-run college framework on an a few year program. Very spontaneous yet rather effectively, this has been coordinated by the blasting private part instructive administrations in IT and electronic business that have multiplied the nation over. Despite the fact that instruction has customarily been a

State obligation, many private programming and electronic trade preparing foundations have mushroomed the whole way across the nation - and not simply in the enormous metros. Truth be told preparing and training is itself developing as another electronic business send out movement with a portion of the greater players in the field of PC instruction presently setting up branches abroad and portals on the Internet. These demonstrating shops give planning from programming undertakings to electronic business practices and web-organizations like therapeutic interpretation. The creating enthusiasm for such authority is today making a few vocation opportunities. In any case, the issue of measures, accreditation, and acknowledgment of these preparation projects is still to be tended to. Some measure of regulation will be important here, keeping in mind that youthful understudies and their poor folks get tricked by some of these very estimated educating shops. Government arrangements and arrangements of e-training likewise should be adjusted to what is occurring in the business sector.

CHAPTER 4

ELECTRONIC COMMERCE AND TAXATION

According to **Ferman** and **Greenstein**, “electronic business is characterized as the utilization of electronic transmission medium to participate in the trade, including purchasing and offering of items and administrations requiring transportation either physically or digitally from area to area.”

Electronic trade is any exchange that is finished over a PC interceded system that includes the exchange of rights or proprietorship to utilize merchandise or administrations. As indicated by European Commission, “electronic business includes more than the buy of merchandise on the web. It incorporates a different arrangement of approximately characterized practices, for example, shopping, searching in Internet for products and characterized practices, gathering data about things to buy and finishing the exchange like some other maintained business action. It likewise implies directing customer fulfillment overviews, catching data about buyers and keeping up shopper databases for advertising advancement and other related exercises”.

The principal section of electronic trade hurled a creative business classification utilizing different mixes of business and buyers. It has its own points of interest and weaknesses as said in conventional business strategies. Consequently, the electronic trade has essentially changed the world economy in a much dynamic and intuitive example.

Charge evaluation problems have a posture on the very foundations and improvement capacity of any money related thought. Because of electronic business, the repercussions are worldwide and impact the general concept and progression of electronic exchange, and furthermore the procedure that each making country would need to grasp as to its outside trade and internal assessment accumulation. This is of essentialness as for most making countries, family unit costs and import and charge commitments continue being a crucial wellspring of pay. From one point of view, the “advanced economy” holds the ability of basic improvement and the trust of an imperative duty to money related wages. On the other hand, there is stress that a development to cutting edge business may pull back the obligation base.

Actually, thusly, a key review of obligation game plans and laws is required as these have their origins in standard, disengaged from the net business. Electronic business is, honestly, trying the adequacy and significant authenticity of the gauges of all inclusive expense evaluation, for instance, physical region, spot of establishment, and valuation.

There are thus three levels at which, the issue of electronic commerce taxation needs to be analysed for a national strategy:

- i.** Whether electronic commerce has an impact on the existing tax laws (the one including those for exporters)?
- ii.** Whether new tax arrangements are required to address the electronic commerce based international trade?
- iii.** If yes, then how will they be thus implemented?

For the current duty laws, electronic trade may not raise new or elite issues. The method of working together through electronic business does, be that as it may, make a few troubles for national expense chairmen. For instance, our expense impetus plans which are region specific and planned to progress youthful regions in the country. Electronic exchange raises the probability of working up the work environments (even locales) in light of such ranges without fundamentally setting up, any genuine workplaces or opportunities there. At an all inclusive level, the exporters could do in like manner taking a case, of getting the slightest creating nation trade shares or the twofold tax collection settlement benefit.

Exchanges over the fringes make a supplementary complexities, as tax collection standards are in a general sense associated with the area. Because of motorized trades, for instance, the downloading of programming or music from a website in another country, it is cloudy as to where the region of the trade will be adjusted. Despite for the trades which are within the country, different distinctive acquisitions of duty gathering are subject to the region of the association or individual, the status of the supplies being alluded to at the season of making contract, and the significance of organizations that may have been incorporated into a trade.

A supervising standard was being spread, in the matter of any new plans for obligation evaluation is that any honest to goodness obligation ought not be

compelled to an electronic trade yet rather ought to apply by and large as to all standard business in addition. In a way speaking, that electronic exchange should not be the goal of fresh and out of line obligations and that. the utilization of a present assessment accumulation on electronic business should be regulated by the principles of obligation non-partisanship and reasonableness. Parallel pay should be managed consistently to the extent quick and circuitous cost requirements, paying little notice to whether this has been earned through electronic means or through various routine channels of the business. Ensuring that the electronic business matches the customary exchange on a point playing field is, from this time forward, a key target.

The theme of approval develops for both existing evaluation arranges and possible new laws. Essentially the approval issue develops when business has happened basically in a digitized outline, i.e., where all parts of the trade have been done 'on-line' in cutting edge or mechanized design and no stock have particularly experienced an apparent customs or private evaluation point. Where electronic business operations have quite recently been used to give and set up a trade and the genuine movement is by standard means, the present customs commitment and appraisal regulations and systems continue applying and can be watched.

For automated trades, the issue for the forces is the methods by which to screen or even realize that a trade has happened. One game plan proposed in April 1998 by a free admonitory gathering designated by the European Commission incorporates the now shameful "bits charge" (i.e., a cost on the "bits" of information zooming around PC frameworks). The fundamental issue with a 'bit evaluation' is that it is erratic: it would charge on-line trades and in addition each modernized correspondence, including email. Moreover the theme of the estimation would be difficult to chose. In spite of the fact that this proposition was as fast released as being exceedingly unfeasible and disabling for, the development of the Internet, a few associations have truth be told even recommended a conceivable usage of the "bit charge" thought, or some other such strategy for debilitating electronic exchange, as a techniques for making an apparent overall headway hold. Another thought which was being proposed is that of the "base disintegration" approach which totally incorporates a low withholding charge made on any portion to an outside huge business. This thought too is stacked with a couple impediments.

The significant issue is that electronic trade undermines the exceptionally basic considered PE, or “Permanent Establishment”, on which most expense accumulation organization’s are made. The OECD’s Advisory group on Fiscal Affairs has opined this ought to be taken to be the server empowering the site of the try. Notwithstanding the way that hailed as a condition of interest decision by different geniuses, it unmistakably is a brief game plan. Sites can be moved starting with one server/nation then onto the next in a matter of seconds, and reflect Sites can be made in different countries nearby a central redirection advantage that sends purchasers to the Website arranged at a server in the country with the most negligible duty evaluation. A late CBDT leading body of trustees on electronic trade tax assessment has, in any case, proposed that the idea of Permanent Establishment ought to be dropped as it is very little pertinent for electronic business and an option ought to be found by the United Nations. This board of trustees has likewise suggested that electronic trade ought not be kept out of assessment net.

The European Commission is by one means or another wanting to go on an obligation of gathering the fitting VAT charge (taking into account the rate’s those are winning in the shopper nations) to the suppliers of the advanced items, similar to music and recordings. In the United States of America, which does not have a government deals assess, the thought has not discovered a lot of some help and the present United States organization rejects the thought of encouraging any new expenses on the web.

Despite the consequences of what will be a definite conclusion on exhausting electronic business, the crucial issue of requirement will dependably remain. It is most basically subject to the very collaboration of the assessable persons and the prominent makers. Also if the taxation, and it’s strict enforcement, are all limited to only few countries, businesses in these countries will simply move either offshore or online transactions which takes place in a state or a country where there is no such tax.⁴⁴ Since new organizations are centering upon electronic items or the electronic procurement of administrations which can be effortlessly moved, any risk of expanding assessment obligation will simply escort them to resorts or strategies, for

⁴⁴ On-line transactions could of course be between different sites located in different countries, but since it would probably be the suppliers that would be targeted for taxation, they could locate their site in a tax haven.

example, the exchange valuing to maintain a strategic distance from an area particular risk. This should be consequently recalled in India.

Every industry adds to the nations money related improvement. The exchanges business has ended up being to a great degree colossal and is promising to wind up massively soon. Not in the slightest degree such as other correspondence media, Internet is urging getting to data bank, in forceful market and rendering organizations of world class standard. Electronic exchange offers another technique for driving, directing and executing business trades using bleeding edge information advancement. It has updated the standard technique for business. Generally, it is a business practice that incorporates use of PCs, PC structures or PC frameworks.

Electronic trade happens in different structures and between different substances in the business sector. The inquiry is the manner by which to assessment it. As the Internet has crossed outskirts that is sway, by what method can the prerequisites of a physical vicinity and noteworthy nexus criteria of tax collection is to be met. Because of the selectiveness of electronic business, tax collection confronts a different number of issues. It is likewise frightened that if this is left untaxed, it will offer ascent to a parallel economy.

4.1 TAXATION FOR THE INTERNET TRANSACTION

The Internet has changed a significant number of the rudimentary and extensive standing ideas of immediate and backhanded tax collection. Governments are all over all through the World are contemplating the distinctive issues of assessment accumulation raised by electronic business. This is thus because of lack of broad understanding of:

- i.** The communication technologies;
- ii.** The intricate nature of business which is offered through Internet business, etc.;
- iii.** The modus operandi of Internet business, etc. has thus made the operation of tax legislations more difficult.

The Information Technology Act, 2000, which is amongst the principal enactment to manage the electronic trade is much quietly noiseless about the expense framework. The generous measure of State Revenue's which are created through immediate and

roundabout assessments are lost because of Internet exchange's been staying untaxed. A suitable route is to be built up to handle this overarching issue.

Tax assessment has dependably been a component for the adjustment and the regulation of the economy of each nation. Understanding this, the council has stressed upon the financial impacts of the guideline of tax collection, putting a specific spotlight on empowering the monetary development.

For the expansion of rational tax policy, an individual should understand the nature of an industry. Some of the peculiarities of the Internet are:-

- i.** It is called as a network of networks and it cannot be owned or controlled by one person.
- ii.** This system called the network of networks is also capable of rapidly transmitting the packets from one computer system to another computer system.
- iii.** No living or precisely a human involvement is necessary to transmit or transfer data from one computer system to another one.
- iv.** The Internet has the capability to re-route itself even if one computer is connected to the internet. Also Content wise the Internet is very rich.
- v.** The world-wide-web environment provides a very user friendly graphical interface.
- vi.** An effortless click is sufficient to obtain a vast information anywhere in the whole World.
- vii.** It encompasses all the territorial and the geographical limitations.

Keeping these distinctive qualities of the Internet in our mind's one should always try to visualise the issues relating to the taxes on the internet.

Electronic business for tax assessment is a spellbinding idea. It traverses nine trillions. In these taking after circumstances, it appears to be exceptionally key for income powers to look at and take after a methodology and approach towards tax collection of electronic business more efficiently than they have till date.

In any case, these examinations should not be restricted to the conventional subjects like whether an e-dealer has a never-ending establishment, how pay from one line trade should be portrayed and where use of items and organizations passed on

electronically happens, et cetera. These topics should be considered in the association of more broad study surveying the total impact of e-change on business benefit, stock system, money related cycles and range contrasts. To place it in into another way, income powers ought not just essentially endless supply of electronic business, (for example, B2C deal. furthermore, buy of merchandise by Amazon.com the downloading. of Norton hostile to infection. program), where consideration is traditionally engaged upon the spot and capacity of servers, the characterisation of wage and the spot of utilization. Rather, the examination ought to for the most part stretch out all the more comprehensively to ensure a more profound comprehension of the way of electronic business as it is today and as it will in the long run grow tomorrow.

In such manner, .it is extremely charming to contend that a business capacity will essentially and all of a sudden vanish into the internet and that virtual organizations will be for the most part ready to work with a little vicinity anyplace aside from a website facilitated by an Internet. administration supplier in a charge free locale.

The Internet exercises are essentially separated into two sections: The first being “getting service” and the second being “content service”. In the previous, .setting off to the Internet will be so given to the people while, in the last mentioned, the substance comprising of data is for the most part conveyed electronically. To recognize it further, Internet administration supplier is the person who gives the administration of getting the Internet while, Online Service Provider (OSP) is the person who gives administration through an Internet. These administrations are rendered by them consequently, for the installment of membership and use charges. .These are additionally subjected to impose. The Internet as talked about priorly includes alleged as substance/material administration, a customary retail exchange to an electronic medium, and electronic business including the advanced items. This would at some point or another make such a large number of Intellectual Property Rights (IPR) issues.

4.1.1 Offline Transactions

The offline transactions describe any kind of transaction where the goods and services are ordered and are possibly paid for electronically, but are delivered by other means. The volume of electronic commerce is at present found in offline transactions. In

disparity to the normal transactions, these offline transactions have come by dis-intermediation. These practicalities of enforcing sales tax and custom duties differ between the online and offline transactions. The authorities of the tax department will need to rethink their current methodologies of tax collection, and simplifying or streamlining procedures without menacing any revenue and other prevailing cross frontier controls.

4.1.2 Online Transactions

The term online is fundamentally used to describe any transaction that is delivered or conducted online. For the tax authorities, these transactions are very complex to handle. The continuous problems with the online transactions, as professed by the tax collecting authorities include:

- i. The Inability to recognize a transaction.
- ii. Encryption of the transaction.
- iii. Collecting the taxes from a millions of end users rather than from a small number of intermediaries.
- iv. The Difficulties in finding where a product is produced or consumed.
- v. The Definitions of goods and services; and
- vi. The Differences between types of the services.

The authorities collecting the tax will be practically powerless in identifying the transactions taken place between Indian consumers and the overseas suppliers, where all of the transactions have been performed electronically which includes paying the money through the mode of electronic cash.

4.1.3 Encryption of Transaction

Some Powerful encryption innovations have been currently made accessible regular to the Internet clients and are likewise anticipated that would get to be one of the generally utilized as a part of the following couple of years. These innovations permit the clients to scramble the majority of the exchanges so that just the gatherings included in it can unscramble the entire data.

This implies if the income tax officer or other expense power can interfere with an exchange, he won't have the capacity to peruse it or comprehend its substance keeping

in mind the end goal to distinguish whether the exchange includes gettingible merchandise or not. The utilization of encryption advancements won't just be directed by expense evaders additionally by the most legitimate native who just wishes for his exchange to be secure gathering the duty from end clients.

Another critical issue in e-tax assessment is accumulation of duty from a large number of people as opposed to middle people. This will build the expense of assessment gathering. Web makes the physical area of the merchant's business superfluous. While, the routine ideas of the business charge law depend on the area of venders business itself. Making utilization of the exceptional component of the Internet, the merchant might work his business sector in a state viably from a long ways past the state's outskirts where it might be resistant to the states saddling purview. The VAT frameworks at present is spot in 30 OECD nations are credit receipt charge frameworks. This strategy has a premise that depends on various guidelines and one of these principles is the "spot of supply tenet". This principle tries to guarantee that fitting products and administrations are liable to tax collection just once. The OECD has suggested that the spot of supply principles be known as the spot of tax collection governs in order to minimize any prospect of misconception about the degree and suggestion for nations emerging from any agreement came to on the spot of tax collection.

4.2 ELECTRONIC COMMERCE TAXATION

The one of the well planned system of tax in India with the authority to levy taxes is divided between the Central and State Governments.

- i. The Central Government collects the direct taxes like the personal income tax, corporate tax;
- ii. The State Governments collects the local and state sales taxes.

In India the expense arrangements ought to be precisely figured taking into account an approach that is clear and straightforward and is predictable with the worldwide standard of characterisation of incomes. The Government ought to respect the rule of lack of bias as set around the OECD in characterisation of wage from electronic trade exchanges.

India has marked expense bargains with different nations. These are principally taking into account by OECD. These settlements are making it obligatory to diminish the loss of pay because of a two-fold tax collection furthermore to offer alleviation to Indian Assessors from the two-fold tax collection. Tax assessment of electronic business has turned into a noteworthy sympathy towards global organizations and duty powers around the world. In Europe, North America and Australia and in numerous Asian nations generous examination has been directed on the effect of electronic trade on tax assessment. Among the plenty of book reports, articles and papers delivered on the subject, the work of OECD emerges as the most critical one. The subject basic all through OECD work done till now is, that the Government needs to effectively meet the difficulties postured by electronic business for tax collection frameworks, and a worldwide facilitated methodology is required to assess a really worldwide marvel.

4.2.1 OECD Report

The recent report of OECD paved a way for the statement of wide taxation principles that should apply to the electronic commerce as reported in “The Economic Times” dated, 3rd June, 2000.

“All double taxation avoidance treaties to be reviewed”. In the sum and substance, the same principles of conventional taxation should be applied to electronic commerce.

Efficiency – The Compliance costs for the business and administration costs for the Governments should have been minimised as far as possible.

Neutrality – The Taxation should be neutral and even-handed between different forms of electronic commerce and thus, should be avoiding double taxation or the international non-taxation.

Certainty and Simplicity – The Tax rules should be unambiguous and straightforward to understand so that the tax payers know about where they stand.

Flexibility – The Taxation system should be the one which is flexible and dynamic to ensure that they keep rapidity with the technological and the commercial developments.

Effectiveness and fairness – The Taxation should produce the right quantity of tax at the right time, and the prospective for evasion and prevention should be minimised.

These standards can be connected through existing duty rules and there ought to be no biased expense treatment of electronic trade. The OECD clerical gathering held in Ottawa in October 1998 embraced the standards compressed previously. They continued to actualize these tax assessment outline work conditions by setting up five specialized help bunches (TAGS). These involve government authorities from OECD and additionally non-OECD states and delegates of the universal business group.

4.3 CHALLENGES BEFORE TAX AUTHORITIES

The general professed wisdom, to which tax authorities unanimously appear to subscribe, is that their most important challenges regarding the electronic commerce are:

- i.** Identifying the tax payer, especially when an Internet user is involved.
- ii.** Identifying audit risks and developing audit trials to ensure compliance.
- iii.** Obtaining getting to verifiable information and documents.
- iv.** Obtaining getting to encrypted data.
- v.** Developing a response to the initiation of electronic money (e-cash) and ensuring resourceful mechanism for the collection of tax especially from the non-resident tax payers.
- vi.** There is a need for initial inter-government and multi-jurisdictional co-operation and agreement to synchronize the taxation treatment.
- vii.** The Taxation authorities need to modernise their operation radically.
- viii.** There is a need to monitor the cross-border business activities on the Internet.
- ix.** The Authorities need to promote their technological knowledge.
- x.** The Tax authorities need a better data mining technique where the database management took and an audit policy certainly towards thoroughly examining the various models of electronic business.
- xi.** The Tax treatment want to match electronic reality.
- xii.** Privileges such as the extended filing dates for the tax returns could be just granted to tax payers who conduct their transactions with the tax authorities electronically.

- xiii.** Many of the tax authorities immediately need to co-ordinate better with the other Government departments to obtain informations on matters such as, customs duty clearances.

Therefore, assess approach producers need to strike a harmony between giving motivating forces to advance the new electronic business economy. Effortlessness of tenets and instance of consistence are evident authoritative and managerial objectives yet these must be adjusted by administrative controls averting wrongdoing and expense extortion guaranteeing individual information security.

4.4 JUDICIAL APPROACH TO TAXATION ISSUES

The legal is gotten amidst the plate, troubled with obligation of translating the diverse sorts of programming and conveying request to their intrinsically clashing treatment. They need direction from point of reference or lawmaking body. Maybe in US, the state and government exhausting substances have not depended on assent strategies of relations in their way to deal with programming tax collection, every element has understood and ordered programming in the way most favourable circumstances to its own particular safe. This outcomes in the incongruent norms of expense treatment. Indeed, even in India, all states have their own particular burdened strategies, hence, to accommodate them into a complete enactment is an exceptionally troublesome errand.

The Courts commonly relied upon two principles in classifying the software as intangible. They are:

- i.** Software as a knowledge;
- ii.** Software also encompasses an assortment of services.

The Knowledge of Principle

It states that the sale of software is the sale of the acquaintance and recognized intangible. Under this hypothesis the tangible means, something of transmitting this knowledge is simply incidental to the transaction. Therefore, the more divisible the content is from the container, the more of the transaction looks like a sale of the intangible knowledge.

The Test of Transaction

The Courts have cited these following factors in consonance of the knowledge principle:

- i.** The Tangible product is a discardable;
- ii.** The disk is a sheer conduct or container for having or possessing the knowledge and
- iii.** There exist Alternative methods of transmission the information.

These all factors comprises the “essence of the transaction” test. In different cases, Court applied this principle to address the issue of software intangibility. *District of Columbia v. Universal computer Assocs*⁴⁵ was one of the first case. The Court had relied upon the “knowledge principle” to conclude that two of the programs at issue in the case-one custom and the other canned-constituted an intangible knowledge which was not subject to tax.

This decision was thus followed in *Commerce Union Bank v. Tidwell*⁴⁶, wherein this case, the Court held that the mentioned tangible magnetic tapes were only conduits for transmission of the intellectual creations. The case of the First National Bank of *Fort Worth v. Bullock*⁴⁷ followed in the rouse of universal and Tidwell and focused upon division of information from it’s container in the quintessence of the transaction test. Also, The Court concluded upon the primary objects of the test of the transaction. The Court finally concluded that the principal object of the transaction, the trade of particular process coded upon the software was an intangible, as a result the sale was not at all subject to sales tax.

Personal Services Principle

Describing programming as an individual administration is another normally utilized support for not holding a candle to the current situation deals/use expense to programming. As deals assessment applies just to the offer of unmistakable legitimately individual administrations customarily have been excluded from deals tax collection. Therefore, if a product deal can be named an offer of administrations then

⁴⁵ 465 F.2d 615 (D.C Cir.1972).

⁴⁶ 538 s.w 2d 405 (Tenn.1976).

⁴⁷ 584 s.w.2d 548 (Tex.CiciAoo.1979).

exchange won't be liable to deals tax assessment. The defenders of this perspective orchestrates that the buyer of programming really purchases the software engineer's administration information and work in taking care of a specific issue. It is a smaller avocation for elusive.

Indian Judicial Approach

In *Tata Consultancy services v. State of Andrapradesh*⁴⁸, there arised a question that whether a branded software which was an intangible intellectual property and also being a product of someone's thought creativity and intellect can be classified as "goods" for the mere purpose of "Andhra Pradesh General Sales Tax Act". They understood that when an individual goes to buy a Compact Disc containing the software he does not pay for the mere Compact Disc but actually for the software which is contained in the Compact Disc. The proposition that software is merely a "knowledge or intelligence" and such is not much corporeal and thus, is not taxable is held as erroneous. Once the information or facts is altered into a physical existence and recorded in a physical form, it is thus no longer in an intangible form but is thus considered as a corporeal property and hence is taxable.

Legislative Approach

The Government of India had set up a panel to go into the different inquiries with respect to tax collection of electronic trade. The Kanwarjit Singh Committee, presented its report to the Central Board of Direct Taxes and it has made certain proposals on electronic trade and tax collection. Government is endeavoring to make a harmony between financial development and era of income in the InfoTech worldwide environment. The issues raised by electronic business tax assessment are mind boggling and the subject is questionable in nature since it has made genuine irreconcilable situation in the middle of created and creating countries. One of a kind components of interest additionally add to the current perplexity. Pay Tax Act, 1961 and Finance Act, 2003 and so forth are quiet about electronic business tax assessment. The main existing understandings around there are OECD Model Treaty and United Nations Model Treaty. In this way, India has no enactment to manage electronic trade tax assessment.

⁴⁸ (2001)4 S.C.C. 629.

4.5 TAX EVASION AND THE INTERNET

A percentage of the Conventional tax avoidance measures embraced by organizations are:

- i. Shifting of benefits to low expense Countries by exchange evaluating thin capitalisation.
- ii. Allocation of costs operation falsely either against local benefits or outside benefits relying upon where the rates of duty are less great.
- iii. Setting up conductor or go-between organizations outside the nation of origin to prepare and channelize wage from various remote source.
- iv. Establishing base organizations in expense safe houses or lawful residence.

The issue of the Internet is that these turn out to be much less demanding with area being very immaterial in the borderless world.

Need for Consensus

In this context, taking into consideration the exceptional characteristics of the medium, consensus is very necessary at an international point if countries are to make sure the important application of taxes, which are direct and indirect, to the electronic commerce that :

- i. Protects the tax revenues generally.
- ii. Does not raise the opportunity for the avoidance evasion or a fraud.
- iii. To Minimise the cost involved in compliance for business.
- iv. Does not at all hinder the enlargement of electronic trade.

This is thus the challenge for our future.

Conclusion

The structure of programming industry includes transnational exchanges, which pull in exchanges procurements of more than one nation along these lines, prompting twofold tax collection of organizations included in such exchanges. The Government World over tries to dodge such twofold tax collection by entering into DTAAS. In any case, there is still a need with respect to all nations to meet up and shape a universally acknowledged uniform model for duty changes. Keeping in mind the end goal to align

Indian charge framework with the International Tax System some huge changes are required. India has as of now seen change in its expense structure. There is significantly more to be done to ensure that Indian IT industry is not frustrated by assessment related issues.

On a bigger point of view, the base of duty framework ought to be widened. It ought to additionally be basic inside of the authoritative limit of the Government. The Government tries to upgrade its income while citizens contradict any expansion in duty rates. Thusly, there must be a line of boundary which the Government will need to take after in light of the fact that restrictive charges don't reflect constructive signs for the development of any economy and might go about as deterrent for the general population entering the Indian market.

CHAPTER 5

THE INTERNATIONAL TRADE REGIME

The ICT resentful and electronic business are building another propelled economy where a couple of the mechanical issues and gages are being made and controlled by transnational organizations, especially in the telecom world. This is achieving a moving of the locus of much system making from government to private business. This is best represented in the developing significance of the WTO rather than the conventional UN associations that so far decided and talked about these issues, for example, ITU, UNESCO, UNCTAD, WIPO, UNCITRAL and so on.⁴⁹ In spite of the fact that this is the truth, it is imperative that these different associations keep on managing a few other essential issues that effect on exchange, for example, telecom base, Internet administration, security and protection, and so forth.

For India, the exchange related or WTO-related issues for electronic trade ought to be taken a gander at from a double point of view:

- i. The arranging stand our ambassadors and specialists would take, where generally they would tend to contend from a South point of view. (India, as most other creating nations, has been contending that WTO transactions ought to be bound to the 'inherent motivation' of the current understandings, however for a few years now, it has been demonstrated that we are willing to arrange on electronic trade and IT as these can add to the improvement process.);
- ii. The bigger monetary point of view of India Inc.- both national and worldwide. A point of view that ought to see the capability of the India as a worldwide information power - independent of the consequence of transactions at the WTO.

5.1 ELECTRONIC COMMERCE AT THE WTO

The issue of electronic business was brought first up in the WTO by the United States in February 1998 as a business sector getting issue with the proposition for part states

⁴⁹ Hamelink (1999). ITU: International Telecommunications Union; UNCITRAL: United Nations Commission on International Trade Law; UNCTAD: United Nations Conference on Trade and Development; UNESCO: United Nations Educational, Scientific and Cultural Organization; WIPO: World Intellectual Property Organization.

not to force any obligations on electronic transmissions. Despite the fact that pushed through by the US as a “halt” measure till the following General Council, the issue has been changed into an all out study and civil argument on basically three noteworthy issues:

- i.** the inquiry of consenting to a changeless ‘stop’ on the traditions obligation burden position,;
- ii.** the inquiry of characterisation of electronic business, either as a decent, administration, or something else from the point of view of the current WTO understandings, and
- iii.** the inquiry of securing IPRs on the Internet.

The quick viable worry of the US was to accomplish a perpetual worldwide prohibition on levies (or ‘stop’, as it is alluded to) on items and administrations which can be conveyed electronically by means of the Internet. This brought about the May 1998 WTO Ministerial assertion on worldwide electronic trade and the on-going WTO work program on electronic business. The Ministerial revelation of twentieth May 1999 guided the General Council to set up an exhaustive work project to look at all exchange related issues identifying with worldwide electronic business, ‘considering the monetary, budgetary, and improvement needs of creating nations’, and report to the 3rd session of the Ministerial Meeting. (wherein involved were Four WTO bodies - The Committee on Trade and Development, the Council on Trade-Related Intellectual Property, the Council on Goods, and the Council on Services - assessed the way in which existing multilateral exchange understandings apply to worldwide electronic business). It likewise requested that all individuals proceed with their present routine of not forcing traditions obligations on electronic transmissions in any event until the following Ministerial meeting. This next meeting was the now scandalous Seattle Meeting, where for a few reasons the issue could neither come up nor chose. The draft declaration nonetheless had penned down the continuation of both the work programmes on the electronic commerce as well as on the ‘stand-still’.⁵⁰ Regardless of reservations from a few quarters, Doha 2001 conveyed ahead this same game plan. Fundamentally, this propagates the norm on levies as wanted by

⁵⁰ This text was put forward although it did not enjoy the full consensus of all WTO Members (Sen 2001).

the created world while proceeding with the “transactions” or dialogs in the four committees depended with the work program.

At first presented as an issue in global exchange strategy dialogs, electronic trade has turned into a subject of multilateral arrangement at the WTO. Detailing arranging positions at the WTO, consequently, keeps on being a matter of sympathy toward creating nations including India. Quite a lot of developing countries are quarrelling that the continuation of the moratorium on customs duty should be correlated with all other transition⁵¹ issues and a package solution be found. Some of them (counting India) likewise need that the work program at the WTO ought to address all the “substantive” issues, i.e. to evaluate additionally the conceivable negative effect of electronic trade and the computerized economy on creating nations.

The inquiry that emerges is the reason there is so much dialog and verbal confrontation on this and what the hobbies of the distinctive nations might be in this.

Complexities of Electronic Commerce Transactions

The Internet as a method for exchange raises a few complex issues. The accompanying case explains the complexities in the sorts of exchanges that are currently conceivable with electronic business in connection to a typical hostile to infection programming program:

- i.** A customer could simply purchase it at a store adjacent, bundled in a CD. (This could be a foreign item.)
- ii.** The producer could send it over the Internet to nearby or cross-fringe merchants who then duplicate the system on to CDs and offer them at their store to neighbourhood shoppers.
- iii.** A buyer could arrange it over the Internet from a local or cross-outskirt producer and it is sent to him.
- iv.** A buyer could arrange it over the Internet and it could be sent in digitized design specifically to the PC of the customer.
- v.** A customer while requesting the product could pick an alternative whereby the project is routinely overhauled through the Internet by the supplier.

⁵¹ A reference to the transition periods provided with some of the earlier agreements on trade and services where developing countries feel they need more time.

- vi. Another alternative could be that it would be redesigned or adjusted in view of intelligent and redid prerequisites of the purchaser.
- vii. A further plausibility could be that the customer makes an unlawful duplicate of the product and either just passes it on to a companion, or truth be told offers it further, either as a CD or pretty much as a connection to an email, for instance.
- viii. Of the aforementioned seven unique minor departure from the exchange (there could be all the more), just the main adjusts to customary procedures of existing so as to purchase and offering and is completely secured exchange understandings. The equalization six are all Internet or electronic trade empowered exchanges. (Indeed, even in the initial, a customer might have looked at costs, store areas and so on by means of the Internet before heading off to a consistent store to buy the product programme).

A portion of the complexities are said here. Firstly, there is the topic of tax. This turns into an issue in every one of the situations where the great has not went through a perceived traditions or residential expense point (when it does, the current levy structure would be material). In the various cases, it would rely on upon the supplier, merchant, or purchaser to announce the exchange and pay the pertinent obligation or duty. For governments, the issue is implementation as well as valuation. Furthermore, this brings up the issue of whether the exchange was for a decent, (for example, CD - exchange no. 1, 2, and 3 above) or was it an administration (on-going hostile to infection assurance - exchange no. 4 and 5 above)? What's more, on the off chance that it is an administration, was it non-institutionalized and altered (exchange no. 6 above)? Thirdly, the issue of licensed innovation security emerges in the last case (exchange no. 7 above). (Varieties of this sample could arrive for any advanced exchange.)

All the above situations have suggestions on existing worldwide exchange understandings as well as on future arrangements and positions to be taken by all nations, including the creating nations.

5.2 ISSUES OF MARKET GETTING: CUSTOMS DUTY

The topic of how to screen and how to assessment is a mind boggling one. For system producers, they concern the issues of expense and duty administrations as much as

arranging positions at the WTO in light of the on-going stop on computerized exchanges. The positions on conceivable obligation burdens are not all that obvious. For some creating nations, for example, India, Singapore, Malaysia, and so forth where the vast majority of the streams of advanced administrations and programming (grew locally) are outwards to different nations, send out obligation is not an issue since fare streams are not saddled. On the import side, software and information inflows for processing in back-end offices⁵² and call centres⁵³ are mostly not subject to the duties either - a measure to thus encourage the IT industry and the exports. Be that as it may, this circumstance may not hold useful for monetary and other administration exchanges. Consequently the inquiry in the matter of regardless of whether levies ought to be exacted should be precisely considered. Traditions obligations are a vital wellspring of income for trade penniless governments out poor nations. It is consequently, vital that the full ramifications of requiring obligations or generally are concentrated deliberately and time given (for better advances to rise that would make obligation valuations conceivable and enforceable for computerized trade likewise) before any last choices are tackled this matter.

Levy (and tax assessment) issues likewise raise the idea of PE or “lasting foundation” and the issue of purview. The Internet and electronic trade challenges the very idea of PE and in this way, offers ascend to the subject of how business exchanges of ventures situated crosswise over fringes are to be followed and burdened. This additionally affects arrangement of the exchange which will be touched upon later in this segment.

Basically this issue of obligation or expense happens just when trade has occurred absolutely in a digitized design, i.e., where all parts of the exchange have been finished “on-line” in advanced or mechanized configuration and no merchandise have straightforwardly gone through a perceived traditions or household charge point. Where electronic trade has been utilized just to convey and set up an exchange and the real conveyance is by normal means, the current assessment and obligation regulations and methodology keep on applying and can be checked. For advanced

⁵² Service, maintenance, and development centres set up in a different location and linked through an Intranet.

⁵³ Centres where customers call or connect via the Internet for varied services from reservations to queries.

supplies, the issue for the powers is to screen or even know that an exchange has occurred.

Towards an Indian position

As indicated by an UNCTAD study, that attempted to gauge the loss of income by virtue of digitisable items being bought on-line, the duty income misfortune represents under 1 for each penny of aggregate tax incomes. This gives off an impression of being affirmed in the Indian case. As indicated by a late ASSOCHAM report, India imported digitisable media items to the degree of US \$198 million in 1996 when the connected tax rate was 26 for each penny. The evaluated duty income was US\$ 51.3 million. Accepting that the digitisable media items represent 50 for every penny of aggregate items which are deliverable in digitisable structure, the income misfortune would be about US\$ 100 million, which will be under 1 for each penny of the aggregate income originating from import obligations. Obviously this does not consider electronic trade administrations, be they monetary, travel, engineering plan, and so on. Yet, then inside we don't charge these specifically and today we don't generally represent these, accordingly guidance or administration passed on through fax or telephone is not saddled.

For India, there are two measurements to this tax issue - the time and the strategy measurement. On the main, the essential actuality is that we truly have nothing to lose starting now if the issue of electronic business stays undecided or uncertain at the WTO. All things considered, our product and IT-empowered administrations fares are keeping on developing at a high rate. Does electronic trade undermine our obligation accumulations significantly? Obviously not for the occasion, but rather we might be not willing to augment the "halt" inconclusively as we might have such need or prerequisites to require obligations later on.

It is critical to note here that at the household front, the topic of burdened electronic business is still under thought and the Central Board of Revenue has a year ago coursed an approach paper on it. The business position on this, as spoke to by NASSCOM, is that no expense or obligations ought to be forced on advanced electronic trade.

5.3 THE ISSUE OF CHARACTERISATION

Electronic commerce raises some elementary issues at the WTO. Primarily, it confuses the distinction between a good and a service. This is a matter of concern because goods and services are treated differently by the WTO. Where services are not subject to tariff, goods are, but the trade in services is limited by restrictions on 'national treatment',⁵⁴ or quantitative controls on getting to the foreign markets. In this way, the principles that will be conceived for electronic business might influence the decision in the middle of physical and computerized strategies for exchange.⁵⁵ The WTO examinations on electronic trade consider it to be isolated into three general classes with the end goal of arrangement exchange: **(i)** the looking stage where makers and shoppers, or purchasers and dealers, first collaborate over the Internet; **(ii)** the requesting and installment organize once an exchange has been settled upon; and **(iii)** the conveyance stage.

The new issues relate for the most part to items that can be conveyed electronically through the Internet [stage (iii) transactions], as this is the place the most huge arrangement questions emerge. It is also argued that the WTO already has market getting regimes⁵⁶ in place - the General Agreement on Tariffs and Trade (GATT) which deals with the trade in goods and the General Agreement on Trade in Services (GATS). The undeniable inquiry that emerges is whether either (or both) of these administrations give a satisfactory system to managing market getting versus electronic business. The case above delineates this is not a straightforward inquiry.

So far as exchange merchandise is worried, there are a few items that can be digitized and sent over the Internet to be again changed over into a decent. A few cases are: music changed over into a CD; data or works changed over into a book; recordings and movies transmitted digitally and changed over to printed versions; illustrations, pictures, plans, and so forth. In every such case, the end use could obviously additionally keep on being in computerized design. Regardless of the possibility that they are, there would be an issue of valuation. Likewise on account of redid works and music, say for a theatre generation, they could in all likelihood be dealt with as

⁵⁴ 'National treatment' in this context means the giving of equal treatment to internationally based service providers compared to domestic service providers.

⁵⁵ World Trade Survey, October 1998, The Economist, London.

⁵⁶ The international agreements on trade that were negotiated and established ostensibly with a view to promote greater (and fair) international trade.

exchange administrations. At the end of the day it would be a non-institutionalized utilization or administration.⁵⁷

According to established ideas, merchandise are substantial and administrations are impalpable. Electronic trade convolutes this grouping as digitisable products can be electronically transmitted and, accordingly, could be thought to be 'elusive merchandise's on the similarity that these same "merchandise" can have physical partners that can be conveyed physically over an outskirts.

It has additionally been proposed by some law specialists that electronic exchanges might be "merchandise" on the off chance that they have some esteem that can be claimed, on the off chance that they exist autonomously of their proprietors, and can be exchanged. Then again, "administrations" could be characterized as things bought by purchasers that don't have physical qualities, i.e. they can't be had and have no autonomous presence from their proprietors. For instance, the first would apply to music and recordings that can be "copied" on to CDs, while the last would be sound and video spilling administrations on the net. The issue or test here would be to add to an arrangement of characterisation variables that apply to all exchanges on the net.

It is contended by a few nations and specialists that the concession to administrations (GATS) includes electronic business and that all administrations are secured by it whether conveyed electronically or something else. Today the considerable greater part of items conveyed electronically, similar to information transfers and money related administrations, are secured in the administrations characterization records. Be that as it may, would this cover every current administration and every computerized exchange? Notwithstanding to exist administrations, there is no necessary or all around concurred grouping framework. In numerous cases the terminology utilized is that in view of the temporary Central Products Classification (CPC) of the United Nations. Be that as it may, this grouping is not utilized as a part of various areas, including money related administrations, information transfers, air transport, and oceanic transport. In addition, it must be noticed that this grouping was last issued in 1989 and accordingly today's innovative advancements and conveyance choices couldn't have been anticipated.

⁵⁷ A book or music or software on a CD for mass consumption would be treated as standardised products, whereas customised writings, music, software etc. would be non-standardised products and classified as services.

It is additionally being contended that for administrations the standard of ‘technological neutrality’⁵⁸ applies and the method of the conveyance does not make a difference by any means. This conviction was utilized as a part of and as the arrangements on the fundamental information transfers and it doesn’t have any legitimate tying status. Along these lines, it can’t be connected naturally to the business sector getting and the national treatment standards arranged in the before administrations understandings. In this level headed discussion about ‘transport modes’ what is essential is not the route in which products, administrations, and data are “conveyed” (whether electronically or by conventional means) yet the path in which esteem is included added.⁵⁹

For most items exchanged electronic trade, the recognizing trademark is the method of conveyance (whether of the request or the administration). For digitized items, the qualification is not clear; e.g. books, music, programming are dealt with in the same class as they are conveyed as paper, tapes, or circles. On the off chance that such items can be digitized then no bearer medium is required and after that it gets to be proper to group these as administrations. Such impalpable merchandise could then go under the ambit of licensed innovation rights also known as IPRs and in this way exchange such products would then be considered as exchange IPR and not in merchandise and administrations.

Sen (2001)⁶⁰ has rightly argued that the classification is in the fact a cross cutting issue, and the amongst it is the most significant also, as the ultimate resolving of it will be deciding mainly other issues. It has the direct implications for both of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and, of services.

There has been broad level headed discussion on characterisation, with differentiating (and legitimate) focuses made on all sides. Yet, nobody definition has been settled upon by all Members. Diverse order frameworks keep on being utilized for products and administrations and, in this manner, it is important to advance a solitary framework for electronic exchanges. A choice, in this manner, must be tackled the

⁵⁸ Concept that in the negotiations concerning the GATS agreement, the services or transactions envisaged were not meant to be dependent on the type of technology used nor the mode of delivery.

⁵⁹ ITU (1999), Millennium World Telecom, ITU, Geneva.

⁶⁰ Sen, Agneswar (2001), ‘Discussion Paper on Electronic commerce in WTO’, mimeo.

income, managerial, and administrative ramifications of regarding electronic business as products or administrations or protected innovation or whatever else.

The European Union (EU) supports the order of electronic transmissions of digitisable merchandise as administrations and favors the accumulation of Value Added Tax on such transmissions. The US then again keeps on inclining towards arrangement of electronic transmissions of digitisable items as "products" with no levy being imposed on them. These positions depend on the present and saw use of this medium where the EU's craving is to keep the sound visuals outside the extent of GATT - notwithstanding when there is cross-fringe physical conveyance.

At Seattle, the WTO draft assertion identifying with electronic trade insisted 'that the electronic supply of administrations falls inside of the extent of the GATS. This, be that as it may, relates particularly to the electronic conveyance of administrations (as one more choice or method of supply). It doesn't incorporate the whole extent of what electronic trade is and might develop to be. The Doha meeting did not reveal any further insight into this position and confined notice of electronic business to just the stop and the on-going work program.

Some Implications of Classification

The way that the open deliberation proceeds, is still in dialog, itself infers that the issue is delicate and has exchange suggestions for programming and electronic trade organizations.

Some of these are given underneath:

Characterisation as Goods

- i.** Customs obligations/duty might be appropriate for supply of music and recordings through the net despite the fact that actually this is not yet plausible. Indeed, even nearby countervailing or extract obligations could get to be pertinent.
- ii.** Anti-dumping procurements could be forced on music merchandise for instance and amounts on movies could be stretched out to the net.
- iii.** Content could be controlled in light of fluctuating laws in nations apparently to secure 'open ethics'.

- iv. Rules and regulations for counteractive action of misleading exchange practices might get to be appropriate.

Characterisation as Services

- i. Digitised administrations could fall inside of the extent of different administrations.
- ii. Applicable administration charge if leviable would should be figured in.
- iii. Specific responsibilities under the four modes would be appropriate and showcase persuading would should be re-arranged.
- iv. Content regulations would apply as GATS grants constraints on grounds of both 'open ethics' and 'open request'.
- v. Laws and regulations relating to security would should be respected.

Implications of IPRs

- i. Some of the nation compliances on substance identify with viable security of IPRs.
- ii. Ownership of the IPR would need to be settled on in many business exchanges where esteem has been executed.

5.4 GATS 2000 AND ELECTRONIC COMMERCE

As specified before, the ramifications of electronic business versus existing WTO assertions is still under study through the working gatherings. The dialogs here keep on being with no last accord as the nations still wish to see more study and research of the issues included and additionally to comprehend the effect of electronic business on different exchange related matters. So as to remark on India's electronic trade system or arranging stand it is crucial to likewise see this in the point of view and impulses of the on-going GATS transactions which began on 1 January 2000.⁶¹ These transactions could have suggestions for understanding the exchange and formative favourable circumstances of electronic trade.

⁶¹ Negotiations of specific commitments are mandated under Article XIX of GATS which states that 'In pursuance of the objectives of the Agreement, Members shall enter into successive rounds of negotiations beginning not later than 5 years from the date of entry into force of the WTO Agreements and periodically thereafter, with a view to achieving a progressively higher level of liberalization.' A fresh round of comprehensive negotiations on specific commitments has, therefore, commenced in the WTO from 1 January 2000.

The certainty remains that electronic trade is a generally new innovation and, along these lines, most nations would not have calculated it in amid their arrangements and duties at the season of the Uruguay Round. Along these lines, there is a case for assessing the relationship between electronic trade and the current duties especially since the conveyance of administrations could be in any of the four methods of supply.⁶²

Box 1: India and GATS 2000 negotiations*

The GATS perceives 4 methods of conveyance of administrations. These are:

- i. Mode 1-Cross border supply, e.g. supply of diskettes, engineers plans, and so on.
- ii. Mode 2-Consumption abroad, e.g. a vacationer profiting of Services abroad.
- iii. Mode 3-Commercial vicinity, e.g. type of lawful substance set up abroad, for example, a bank office.
- iv. Mode 4-Movement of Natural Persons, e.g. physical development of experts, gifted and untalented work for brief period. It doesn't spread changeless relocation.

While the essential command for the new arrangements at GATS stays further liberalization, the fundamental distinction between the methodology of nations such as India and those of the North is that the previous wish to consider new proposition utilizing area by segment conventional methodologies though there are as of now endeavors by a portion of the created nations to get particular and sweeping recommendations, apparently to encourage cross-cutting liberalization. These are the endeavors to present the level or formulae approach notwithstanding the current or traditional 'demand and offer methodology'. Particular proposals for improvement of such recipes include:

- a) Establishment of institutionalized least liberalization responsibilities on a sub-sectoral or on a modular premise;
- b) Exclusion of specific sorts of confinements, for example, nationality necessities, no matter how you look at it;
- c) Classification of areas on a group premise and duties in light of the bunch;
- d) Use of model timetables (those utilized for budgetary administrations and

⁶² Preparations for the 1999 Ministerial Conference: Work Programme on Electronic Commerce: Communication from Indonesia and Singapore, 8 July 1999 at <http://www.wto.org>.

essential telecom administrations).

The Indian position on this holds level equations ought not at all diminish the adaptability in booking responsibilities and change the fundamental structure of GATS.

Created nations would without a doubt press for more noteworthy liberalization in mode 3 identifying with business vicinity since they would be keen on giving business sector getting to their capital. Henceforth, the weight on creating nations, including India, would be to give more noteworthy business sector getting in mode 3 and timetable more segments in this mode. Then again, for some creating nations including India, the most essential wellspring of fare would keep on being mode 4 identifying with 'Development of Natural Persons'. India, particularly, has premiums in searching for more conspicuous business division getting for its specialists and capable work in mode 4 in light of its surplus arranged and skilled work. In this way, the trade off in these courses of action will without a doubt be cross-sectoral with India looking for business sector getting principally in expert administration divisions and others requesting more prominent business sector getting in foundation parts like money related administrations, telecom administrations, transport administrations, dispersion administrations, and so forth.

*GATS brief at the Ministry of Commerce website at www.comind.nic.net.in

Towards an Indian position on electronic commerce and GATS

Box 1 represents India's position opposite administrations all in all. For electronic trade, it is vital to first comprehend a perspective taken by a few specialists that every one of the four methods of GATS would apply to electronic business.

Mode 1, Cross-Border supply: Electronic conveyance of an administration can be cross-outskirt and for electronic trade for the most part is.

Mode 2, Consumption abroad: This could include utilization of an electronic business benefit abroad by a voyaging official, for instance.

Mode 3, Commercial vicinity: This would infer electronic trade administrations by a venture in another nation through a lawful element built up abroad, for example, a backup of the endeavour.

Mode 4, Movement of Natural Persons: here obviously it is through physical development of experts, e.g. programming engineers who travel to another country to run electronic business administrations for an interim period.

In fact, however it is truly in mode 1 that the greater part of the exchanges would apply. In any case, take note of that this mode effects and cross-cuts the various modes as well. For instance, utilization abroad of a restorative administration could trail exchanges of data, contract and part-benefits supplied as cross-outskirt telemedicine. Business vicinity could encourage electronic trade cross-fringe supply and development of persons could be notwithstanding or take after beginning cross-outskirt electronic business supply of administrations. In addition both mode 3 and 4 are essential assistants for electronic trade, particularly Indian programming administrations. A significant part of the Indian programming and ITES fares are through business vicinity as backups and joint endeavours (JVs) both abroad and in India and in addition through development of programming experts.

Characterization of electronic trade as administration will likewise include WTO individuals conceding to arrangement of the method of supply. This is critical, as it would decide the administrative treatment of the exchange. For instance, a money related administration supplied over an outskirt could be named cross-fringe supply or mode 1 and the exchange regarded as shelter occurred in the nation of the purchaser's living arrangement, hence applying the importing nation's administrative administration - and charge. On the off chance that the same exchange were delegated under mode 2 - utilization abroad, the administrative administration appropriate would be that of the nation of the supplier's living arrangement. Such inclination of characterization would generally rely on upon whether it is seen as an issue of buyer security (in this way, lean toward mode 1) or as favouring business sector getting (and along these lines incline toward mode 2).

For India, as an importing nation it would have all the earmarks of being ideal to incline toward electronic trade exchanges and administrations as delegated mode 1. Be that as it may, with the on-going blast and capability of IT-empowered

administrations, it is fairly to India's greatest advantage to push for more prominent business sector getting under existing mode 2 responsibilities.

India's principle premium and center range in the GATS arrangements would likewise be to give viable business sector getting to its experts and gifted work power and to achieve a concurred consistency in the development of capital and work. What could be India's position for electronic trade so far as the cross - sectoral market getting issues are concerned? India's stand for the services as a whole is outlined above. As regards its specific interest in the services sector, according to the Ministry of Commerce⁶³ the sectors where the market getting for its professionals are specifically required are the following: (a) Health, (b) Legal, (c) Construction and Engineering, (d) Software, and (e) Accountancy.

It could be taken that the India's enthusiasm for every one of these ranges ascend from its qualities in every one of these divisions and, subsequently, we would be abundantly intrigued by the entire supply of these administrations to the extent potentially in every one of the modes. To value the cross-sectoral interest that we might have between these distinguished segments and electronic business, it is helpful to introduce a framework of the connection or supply of these administrations by means of the Internet or as electronic trade, and view these in the setting of the 4 modes.⁶⁴ (India's advantage, in view of the potential or conceivable outcomes, are recorded as High, Medium, and Low.)

It is past the extent of this venture to talk about India's stand versus different administrations, for example, information transfers, money related administrations, conveyance administrations and so forth. Suffice it is to say that as if so far as several of these administrations are deliverable or affect electronic business supply, our position could keep on being reliable with our GATS arrangement stand all in all as the vast majority of these administrations are not where India's quality untruths.

There is, in any case, a rising conclusion in India that from the Indian perspective, it would likely be more agreeable if electronic business is taken to fall in the administrations stadium. India's responsibilities here are not very many. Also, the

⁶³ GATS brief at the Ministry of Commerce website at www.commind.nic.net.in.

⁶⁴ Where services are inter linked or where country commitments in one sector may have an impact on one or more other sectors.

arranging model of solicitation and offer considers a simpler methodology and, along these lines, India's needs to stick by it. Additionally it takes into account level prohibitions, for example, the non-giving of national treatment. This would give a more noteworthy suspicion that all is well and good. Be that as it may, in the segments of enthusiasm to India, electronic business exchanges and administrations hold potential in light of the Indian qualities. India might, in this manner, be willing to tackle a more open arranging position.

We might not have any genuine complaint to the perspectives communicated above, aside from with the stipulation that electronic business is as yet creating and developing. It can't be restricted and characterized by meanings of products or administrations. It might be either less or something all the more as well. Strategy creators, consequently, should be arranged to take up new transactions in the region of electronic business and afterward settle on the matter of duties and standards.

On the off chance that electronic trade is to be dealt with as something else from an administration or a decent it could manage the cost of us the chance to arrange to advantage. In any case, the threat here could likewise be that created nations could go to an understanding among themselves and, getting support from a few 'customarily steady/dependant nations, could then compel others to acknowledge it (as happened at the season of the TRIPS assention).

5.5 INTELLECTUAL PROPERTY RIGHTS AND ELECTRONIC COMMERCE

For methodology makers, there are two domains which ought to be tended to and got on. The primary concerns the organization of the Internet addresses, which essentially suggests rehearsing whatever minor control there is over the medium. The second domain concerns the confirmation of IPRs over the Internet.

As the Internet is the platform for global electronic commerce, the administration of the 'domain names'⁶⁵ system is very important from both sides that is from a policy and procedural perspective both. The most important players in these are the Internet Corporation for Assigned Names and Numbers (ICANN), and the Domain Name

⁶⁵ Domain names are the people-friendly form of Internet addresses (which are actually numbers) designed for computers to recognize the address of a particular site on the network.

Supporting Organisation (DNSO), which take the a small amount of vital decisions regarding protocol or for allocating the Internet addresses or the domain names. These are vital issues, with the last having exceptionally solid business suggestions for the trademarks issue.⁶⁶. Developing nations are should have been spoken to in these bodies.

Electronic trade envelops the purchasing and offering of items and administrations at a far separation. It is, from this time forward, turning out to be progressively critical to depend on the notoriety which is connected to the trademarks and other particular signs. Not just is the topic of their security an issue, however clashes emerge in the middle of them and Internet “domain names”, which, however intended to serve as locations, have procured a further importance as business identifiers.⁶⁷. A few locations containing the trademark names of built up organizations have been enlisted as space names, accordingly prompting arguments about their utilization, and also to charges of what is alluded to as “cyber-squatting”.⁶⁸. This practice has turned out to be popular to the point that it is evaluated that 98% of the words in Webster’s English Dictionary at present have been enlisted as domain names.⁶⁹. Offering creative and intriguing names as Internet locations is one thing, however “cyber kidnapping trademarks” of existing organizations is something else out and out.⁷⁰ The World Intellectual Property Organization (WIPO) has a year ago issued a report on the issue of trademarks and space names, prescribing practices and rules planned to avert debate around there.⁷¹ They likewise acknowledge the grievances around there and they issue judgements from Geneva on the same matter. This procedure is, be that as it may, rather difficult and extravagant for poor nations and their organizations.

⁶⁶ Top-level (country) domain names can even have a political significance, as in the case of Palestine having recently been granted the “.ps” domain. And countries with interesting and commercially significant Web domain addresses like “.TV” for Tuvalu in the Pacific can sell the rights to commercial enterprises (in this case multi-media companies) to register companies with their suffix, and Moldova can sell registration rights to US doctors to register with their unique suffix - “.MD”.

⁶⁷ WIPO Report (1999).

⁶⁸ This is the practice of obtaining well-known people-names or common terms, brand names and trademark names as Internet addresses with the hope of later selling them at a profit.

⁶⁹ Wall Street Journal, 25 April 2000, New York.

⁷⁰ A new form of cyber-squatting is what is being referred to as the ‘typo-squatters’, where names very similar to existing popular website addresses are registered with the hope that clients would possibly type the wrong address when trying to connect on the Internet and thus land up at the alternative site.

⁷¹ Under the new Uniform Dispute Resolution Policy adopted by ICANN, the first such case filed by the World Wrestling Federation (WWF) was cleared by the WIPO Arbitration and Mediation Centre this January.

The security of IPRs requires that governing bodies and the private division make and execute a suitable mix of regulatory, contractual, and creative measures, and ensure tasteful open nature with the piece of copyright and related rights in the information society. This would, from one point of view, offer security to neighborhood organizations in overall markets and, of course, spur theory and improvement by giving an ensured and honest to goodness environment.

Towards an Indian position

The issue is to create innovation and administrations that can be connected to the computerized environment in a way that advances electronic business while ensuring protected innovation rights.⁷² Indian law and the Courts have officially taken an extremely proactive stand opposite trademarks enrollments and their bolster versus area names. The Indian position, along these lines, ought to be to keep on supporting the IPR administration while requesting representation on standard-setting bodies, for example, ICANN. India ought to likewise request a simpler and more reasonable getting to the discretion instrument at WIPO in the matter of disagreements about space names and in WTO over issues concerning TRIPS.

5.6 INFORMATION TECHNOLOGY AGREEMENT AND ELECTRONIC COMMERCE

There is one more WTO understanding that has a circuitous bearing on electronic exchange and India's key position. This is the Information Technology Agreement (ITA) organized post-Uruguay Round and exemplified in the WTO Ministerial Declaration on Trade in Information Technology Products. The comprehension got to be compelling in March 1997 and suits its individuals to abstain from customs commitments and distinctive commitments and charges on information advancement things by the year 2000 on MFN premise. The assention relates to IT, telecom, semiconductor, and sensible rigging and things. It consolidates programming, however just on a hard medium, for instance, diskettes and CDs, et cetera. It would, thusly, not cover automated exchange or on-line trades of programming. India is one of the 40 signatories to this assention in any case, being a making country, has till 2005 to mix with the comprehension.

⁷² Alliance for global business, 1999, A global action plan for electronic commerce, AGB, OECD, Paris.

The fundamental standard behind this understanding was the further liberalization of the information interchanges division. In spite of the fact that there has been much level headed discussion in transit this understanding was arranged, overlooking creating nations sees, for India it implies advancing towards the zero obligation administration in the staged way - something that the nation has as of now been accomplishing for IT items. At the large scale monetary level the understanding goes for diminishing the expense of equipment - along these lines, prompting an ensuing positive effect on the expense of administration provisioning. In spite of the fact that the equipment division in the nation might have doubts with this, so far as electronic trade and the product segment is concerned, this development ought to bring about less expensive items and, hence, development in electronic business administrations. For shoppers, this implies less expensive items and administrations, and for the economy a conceivable force to the development of systems. For the nation overall, in any case, this could mean two things:- (a) that the new open doors in the ICT part and equipment might be overwhelmed by multinationals, and, (b) that the IT division turns out to be much more programming and electronic trade driven. The most recent couple of years have established that in the main some Indian organizations are likewise profiting by the open doors; so far as the second one is concerned, that is the nation's essential upper hand and the product business ought to profit by the development in the business sector of institutionalized programming items and applications.

CHAPTER 6

APPROACH TOWARDS A POLICY FRAMEWORK

6.1 A FRAMEWORK FOR STRATEGY FORMATION

In figuring a national system for electronic business, it is essential to hold up under at the top of the priority list, if not really experience, the set strides of an established strategy detailing structure. These would entomb alia include:

- i.** Deciding on advancing electronic trade (motivation setting) - this requires e-mindfulness.
- ii.** Deciding on issue filtration, incorporating characterizing the partners all the while.
- iii.** Defining the issue and determining the objective.
- iv.** Setting goals and needs (what do we need and in what capacity will we know we have it).
- v.** Analysing the choices (what is simple as well as being interested in choices).
- vi.** Implementing the arrangement and methodology.
- vii.** Monitoring and assessing (in a participatory and scientific way).
- viii.** Maintaining, conforming and re-assessing - ceaselessly

It is likewise vital here to recognize arrangement and procedure. In spite of the fact that one takes after from the other, it is fundamental for an electronic trade send out system structure to go for an engaged target situated approach instead of the standard thing “volume of advancement” or the “wading through” methodology. Creating nations, for example, India have neither the assets nor an ideal opportunity to go for expansive band or apparently far reaching procedure went for changing their whole economies to coordinate the new advanced age. In this setting, short-or-medium term methodologies are fundamental to pick up from the exchange and formative advantages of electronic trade.

6.2 TOWARDS A STRATEGY FOR INDIA

Whether as an apparatus for improvement and administration locally, or to advance and expand send out development and global exchange, India needs to embrace a proactive part. It needs to guarantee that the advantages of electronic trade gather to

those attempting to overcome monetary underestimation because of geographic, money related, innovative, or instructive impediment. In fact, the need to close the hole between those with inexhaustible data within reach and the “data poor” gives a solid method of reasoning to the advancement of electronic business as a national goal.

As has been acquired out this study, it is key to make an arrangement and administrative environment that supports the improvement of electronic business and orchestrates national methodologies in various ranges including information transfers, exchange, rivalry, licensed innovation, protection and security. Since the way to this is the telecom and Internet system, proactive and steady approaches are an unquestionable requirement to profit from this developing open door. Examination is, hence, required to inspect diverse activities worldwide and their relative achievement and flexibility for India.

6.2.1 Development Objectives

A creating nations, for example, India confronts an exceptional test and obligation to make a favorable approach environment that, from one viewpoint, takes into consideration the advancement of electronic business and, then again, guarantees the social goal of giving getting and advantages to those that can't bear the cost of it. Electronic administration, open Internet terminals, provincial getting at sponsored cost, e-mindfulness and so forth are a percentage of the activities that should be considered and advanced. At the same time guaranteeing that the administrative methodologies are straightforward, fit, and autonomous of particular advancements alongside open and focused information transfers strategies is vital to pull in the venture required for telecom and electronic business advancement.

6.3 ELECTRONIC COMMERCE AND ELECTRONIC TRADE

The projections for the future demonstrat to IT fares of US \$50 billion, with 10 billion originating from e-business. The truth of today is that all or the greater part of our achievement in the IT enclosure comes straightforwardly from programming. In-your-face electronic business or e-exchange is yet to get. This is the peril. On the off chance that our exchange does not get to be e-empowered rapidly, what to talk about new open doors, even our current exchange will stand undermined as more of

universal exchange believers to advanced exchanges and business by means of the Internet.

So as to investigate which of our exchange merchandise would be appropriate for changing to the B2B worldwide supply chains without bounds, it might be useful to see our current exchange wicker container and see which of the wares might potentially deal with this simpler.

Such advanced supply chains basically require computerization, of a high degree, of the whole production network. The variables that could guarantee a more noteworthy shot of consistence and flexibility would be the accompanying:

- i. Urban based exporter area for less demanding getting to computerization and the Internet.
- ii. The bigger endeavors moving first as only they have the surplus assets for digitization and presentation of ERP and EDI sort robotization.
- iii. Where the Trading House interface is more as they could be the impetus in the process or themselves do or encourage the exchange.
- iv. Where fare is to settled or limited number of purchasers in an industry that is changing to computerized strategies and advanced supply chains

Applying this model to India's significant fare things might give a sign of those that might get to be e-empowered less demanding/faster. We should get to be e-perfect for electronic business and e-exchange, keeping in mind that we lose the piece of the overall industry that we right away have. Lamentably, the ground circumstance and information on the same is both inadequate as far as hobby and gathering. This requirements to tended to by the Ministry of Commerce and Industry from one viewpoint and exchange and industry relationship on the other.

6.3.1 Electronic commerce as a non-tariff barrier

For creating nations, for example, India, electronic trade can itself turn into a non-duty boundary at the appropriate time. As more global exchange and supply chains get to be computerized over the Internet, those endeavors that are not a piece of them either remain to lose the exchange opportunity or else pay a higher cost or charge for the administration or exchange bargain (as a “fine” for not being e-good). As of now in India there are a few samples of suppliers getting installments electronically and

banks making extraordinary allotments (and, in this way, charging an extra expense) from them till such time as the managing an account regulations and courses of action for such exchanges are not set up.

6.4 TOWARDS A WTO NEGOTIATING POSITION

The issues of electronic business and its suggestions on the global exchange administration are of innovation and getting. Does the worldwide environment guarantee break even with right of passage and right of utilization? Tragically not! Can the WTO and the universal organizations guarantee such getting to every one of their individuals? That is a long ways in actuality, however an intelligent arranging position. It prompts the practically evident interest for exceptional and special treatment for creating nations in any electronic business assentment. Getting it is far fetched yet arranging for it might be valuable.

Despite the fact that there is little uncertainty that electronic business is an imperative and significant issue for world exchange, there are a few parts of it that should be further concentrated, particularly from the perspective of their suggestions for the creating scene. A large portion of the electronic business and Internet specialized and monetary advancements from one viewpoint and arrangements and discourses at the WTO, ITU and so on the other, are occurring without a more extensive, more incorporated system which makes note of the requirements of and potential outcomes for creating nations as to electronic trade and the data and interchanges innovations which encourage it. A few creating nations are subsequently embracing a protective position and are hesitant to participate in a procedure (at the WTO) which could prompt duties and abandonment of their choices. Today the more extensive picture is still very hazy and the expenses and advantages are hard to decide and evaluate. Arrangement producers need to request the WTO work program on electronic trade to additionally look at the income and other monetary ramifications of electronic business for creating nations, disintegration of business sector getting of creating nations, and ramifications of protected innovation administrations opposite electronic trade and additionally innovation getting at moderate expense. There are likewise a few obstructions to the accessibility of and getting of this medium in creating nations and unless these are tended to at the same time, the hole between the created and creating world and that between poor people and rich will just broaden. In this way,

while considering the advancement of electronic business as a major aspect of the world exchange motivation, the issues of foundation, speculation, accessibility, and minimal expense of equipment and programming, mindfulness, instruction, and preparing should be likewise tended to and changed. India has and ought to keep on taking this stand.

On the arrangement front, the Indian mediators at the WTO may not will to incorporate electronic business as another issue on the multilateral exchange plan or framework. Obviously, in light of the fact that they might not want to tackle any more commitments as Indian might not have the assets to meet them. The other side of this could be that the Indian dealers and exporters might lose some conceivable getting in the West or somewhere else. Do we have adequate information to settle on this issue? Not for the occasion, as the electronic trade worldwide ramifications are themselves as yet rising. It ought to, along these lines, be India's interest to the WTO to keep on concentrating on this as a component of their work program at a worldwide level as it might not have the assets to do it without anyone's help.

Toward the day's end the Indian arbitrators need to recall that India is a developing pioneer in the data age. Do we require the WTO and any concession to electronic business that it might think of? Presumably not! The business sectors in the created world that India is getting, and will keep on needing to getting, are as of now genuinely liberal and open. It is, consequently, to India's greatest advantage to not be "demanders" on the electronic business issue. Generally India has driven the resistance on any or most issues raised by the US and other created nations at the WTO. Maybe for this situation, it would acquire by not emerging as "opposers" either.

6.5 REASONS OF THE FORMULATION OF CYBER LAW IN INDIA

- 1) The entry of Internet flagged the start of the ascent of new and complex lawful issues. All the current laws set up in India were established path back remembering the significant political, social, financial, and social situation of that applicable time (50's). No one then could truly picture about the Internet. The happening to the Internet prompted the development of various sensitive legitimate issues and issues which required the authorization of Cyber laws.

- 2) The existing laws of India, even with the most altruistic and liberal translation, couldn't be deciphered in the light of the developing the internet, to incorporate all angles identifying with various exercises in the internet.
- 3) None of the current laws gave any lawful legitimacy or assent to the exercises in Cyberspace. Courts and legal in our nation have been hesitant to allow legal acknowledgment to the legitimacy of email without a particular law having been instituted by the Parliament. Thusly the need had emerged for Cyber-law.
- 4) Internet requires an empowering and strong lawful framework tuned in to the times. This lawful framework must be given by the institution of the pertinent Cyber-law as the conventional laws have neglected to allow the same. Electronic trade, the greatest eventual fate of Internet business, must be conceivable if essential lawful framework compliments the same to empower its lively development.

IT Act 2000 Vs IT (Amendment) Act 2008

The Information Technology Act was established in 2000 with a perspective to give legitimate acknowledgment to ecommerce and e-exchanges, to encourage e-administration and avert PC based wrongdoings. The fast increment in the utilization of Internet has prompted an ascent in the wrongdoings such as kid erotic entertainment, digital terrorism, distributed sexually unequivocal substance in electronic structure and video voyeurism. Along these lines, reformatory procurements were required to be incorporated into the Information Technology Act, 2000.

The IT (Amendment) Act 2008 was gone by on December 23, 2008. The alteration rules relating to different segments, for example, strategy and shields for capture attempt, checking and decoding of Information, blocking getting of data by open and observing and gathering activity information have likewise been advised. Other than observing and capture attempt, the changed Act likewise manages the arrangement of Indian Computer Emergency Response Team (ICERT), which manages PC security and circumstances emerging from digital assaults. The corrections to battle the digital terrorism was made in so rush that it may be demonstrated a white elephant. Web restriction cause obstructing of open getting to any data source which might causes misfortunes in different terms. An illustration in such manner can be seen the

obstructing of more than 300 sites/website pages after the mobs in Assam, Mumbai and Uttar Pradesh. While different intelligent people contended that legislature ought to have utilized the same media to counter terrorism, despise discourse.

From a corporate point of view, the most basic region anticipated that would be tended to is that of classified data, especially in cross-fringe interchanges. Another issue in the Act lies in the separation in the middle of people and enterprises, nationals and trans-nationals, and the particular circle of digital terrorism, as all these can't be clubbed under one umbrella. India is progressively confronting the issue of electronic, classified data being pilfered by workers.

As per Pavan Duggal, a honing advocate in Supreme Court of India (Specializing in Cyberlaw) notice that this alteration enactment goes to a great degree delicate on digital lawbreakers. An enactment that energizes digital culprits by decreasing the quantum of discipline agreed to them under the current law. At present, the IT Act, 2000, has given to discipline for different digital offenses going from three years to ten years. These are non-bailable offenses where the charged is not qualified for safeguard as an issue of right. In any case, the changes to the IT Act have felt free to decreased the quantum of discipline. The offenses of hacking, as characterized under Section 66 of the current Information Technology Act, 2000, have been totally erased from the law book.

CHAPTER 7

CONCLUSION

The Indian Cabinet on August 1, 2015 endorsed another Consumer Protection Bill 2015 that tries to supplant a 29-year-old law and proposes to set up an administrative power which will have powers to review items and start class suit against defaulting organizations, including e-tailers. The proposed new law accept significance as there is developing worry over security of customer items and administrations particularly after the Maggi debate. The new bill, affirmed by the Cabinet on Wednesday and prone to be presented in the progressing session of Parliament, accommodates an exhaustive structure for assurance of shopper hobby and will supplant the Consumer Protection Act, 1986.

The choice comes against the background of development of complex items and administrations in the time of developing ecommerce business in India that has rendered buyers defenseless against new types of out of line exchange and untrustworthy business rehearses, sources said. The key elements of the new bill incorporate foundation of an official office “Focal Consumer Protection Authority” (CCPA) which will ensure and authorize the privileges of customers. “The power will mediate when important to keep buyer impairment emerging from out of line exchange hones and to start class activity including upholding review, discount and return of items”.

That separated, the bill has procurements for “product liability” if item/benefits causes individual harm, demise or property harm and will make a move against defaulting makers or administration suppliers. For expedient transfer of court cases, the bill proposes “intercession” as an option debate determination instrument. The intercession will be under the aegis of customer courts.

Clarifying the method of reasoning behind bringing another bill, sources said that deceptive promotions, tele-showcasing, multi-level advertising, direct offering and e-tailing posture new difficulties to customer assurance. Subsequently, there was a need to modernize the demonstration to address the circumstance successfully. The Bill likewise accommodates stringent punishment, incorporating life detainment in

specific cases, sources included. The Consumer Protection Act 1986 was corrected thrice before in 1991, 1993 and 2002.

In view of the study, the accompanying is a posting of a portion of the principle discoveries and suggestions for the proposed strategy motivation:

- Electronic trade is more about technique and business administration than it is about innovation.
- Initiatives for a vital way to deal with the computerized economy require an element and not static approach.
- It is key to make an arrangement and administrative environment that supports the advancement of electronic business and fits national methodologies.
- For electronic business advancement it is not only the equipment and physical foundation that is sufficient. What is required is the right “information structure” which means.
- Electronic trade in India incorporates three zones:
 - i. Software sends out.
 - ii. Web-empowered administrations.
 - iii. Electronic business and Electronic exchange.
- The issue is not whether the Internet ought to be managed, but rather how.
- Certifying and verification powers that need to come up as a spin-off of the IT Act should be completely operational early.
- These steps should be coordinated by sorting out the issues of security and installments. Managing an account laws and regulations accordingly should be acclimated to the new configurations and prerequisites so that electronic asset exchanges and Visa society advances and sets in India.
- In the range of security, which is firmly identified with information accumulation, elucidation, scattering, and course, principles are required to administer the route in which individual data is gained, uncovered, and utilized on-line.
- US organizations creating security advancements are without further ado limited by their Government from the fare of such advances and that is an issue that should be tended to at the global level.

- Implementation of e-administration should be pushed through regardless of the requirements and obstacles that will create against it.
- Future charge strategy on electronic business needs to guarantee that electronic trade rivals customary business on a level playing field; is steady with the standards of worldwide tax assessment; minimizes consistence costs; and is straightforward, unsurprising, and with basic principles to take after.
- Capacity working in the field of data innovation, in the information of the presence of a worldwide business sector for such aptitudes, is urgent. This requires the improvement of instruction and preparing approaches, to guarantee that preparation organizations' educational program address with the issues of industry.
- A national level headed discussion is required on the issue of supplying human scholarly money to created nations. India additionally needs to raise it at the multilateral level at associations, for example, the WTO to request arrangement on it between governments, from one perspective, while putting set up a motivation to pick up from the monetary open door, on the other.
- Regulating the electronic trade and IT showing shops should be tended to with a specific end goal to guarantee measures and coordination in the middle of government and private organizations.
- Developing nations, for example, India, additionally need to set themselves up for the future multilateral exchange motivation which will essentially incorporate electronic trade.
- For the WTO transactions on electronic trade, India needs to request that the WTO itself help it in considering the full worldwide ramifications of electronic business from the creating nation point. These would incorporate looking at the income and other financial ramifications of electronic business for creating nations, disintegration of business sector getting of creating nations and ramifications of licensed innovation administrations versus electronic trade and monetary advancement and innovation getting at reasonable expense.
- Or touching base at a national position, account must be taken of the bigger monetary point of view of India Inc, at both national and worldwide levels - a viewpoint that ought to see the capability of the India as a worldwide learning

power. The private part should be included and counseled in touching base at any such position.

- India's primary premium and center range in the GATS transactions would be from one viewpoint to give powerful market getting to its experts and gifted work power and on the other to achieve a concurred consistency in the development of capital and work.
- Electronic business or Internet based supply of administrations, (for example, wellbeing, designing, legitimate, bookkeeping, and so on.) universally is to India's greatest advantage, and it would profit by the cross-sectoral joins with (and through) electronic trade in them.
- India ought to keep on supporting the IPR administration while requesting representation on standard setting bodies, for example, ICANN. India ought to likewise request a simpler and more reasonable getting to the intervention component at WIPO in the matter of disagreements regarding space names.
- India necessities to get ready procedures to getting the generation and supply chains at different stages in the advancing worldview of e-exchange.
- India ought to take after the system definition structure in arriving and observing any such arrangement.
- India must get to be e-perfect for electronic business and e-exchange request to save its current piece of the overall industry in universal exchange. To do this, the Ministry of Commerce ought to dispatch a work program for contemplating the suggestions and pertinence of electronic business in various item gatherings and regions, including administrations, and for working out techniques to e-empower the Indian exchange and industry.

The development of the electronic business industry is not just characteristic of the expanding openness of the general population yet has likewise conveyed to the front the issues that the legitimate arrangement of the nation has been confronted inside. The legitimate framework has continually attempted to be upgraded particularly with the sanctioning of IT Act to manage heaps of issues rising up out of the utilization of web. Consequently, an extensive comprehension of the legitimate administration and the conceivable issues that an electronic trade business would confront together with successful danger administration arranges has been the need of great importance for electronic business organizations to succeed in this industry.

CHAPTER 8

SUGGESTIONS

The electronic exchange has taken the business world by a whirlwind which has transformed into the spine for new economy, having colossal potential and has changed the way business. It has ideal circumstances for both buyers and moreover sellers and this positive condition is the standard clarification behind its rising. As a coin has two stands up to, it in like manner has a couple issues which can be managed the adjustment in development and better honest to goodness edge work.

In light of the study, the accompanying are the principle discoveries and proposals:

- Electronic trade is connected with the innovation as well as with system and administration.
- For electronic trade advancement of right data is required more than the equipment and physical foundation.
- A dynamic methodology is required at the spot of static methodology for the computerized economy. In the event that it is about the modernization of exchange or correspondence process one would need to think as needs be and approach must be not quite the same as the customary procedure.
- Creation of an arrangement and administrative environment is key for the smooth running and advancement of electronic trade.
- Electronic business in India incorporates comprehensively three zones, programming sends out, web-empowered administrations, and e-exchange.
- Parallel to IT Act, Certifying and validation powers must be completely operational to deal with the issues of security and installments. Managing an account laws and regulations in this manner should be changed in accordance with the new configurations and prerequisites so that electronic asset exchanges and plastic cash can work with no bother and false exercises.
- Future charge strategy on electronic trade needs to guarantee that it is reliable with the standards of worldwide tax collection; minimizes consistence costs; and is straightforward, unsurprising, and with basic tenets to take after.

- The improvement of instruction and preparing approaches is required to create powerful labor to address with the issues of industry.
- Regulating the electronic trade and IT showing shops should be tended to with a specific end goal to guarantee measures and coordination in the middle of government and private organizations.
- Developing nations need to set themselves up for the future multilateral exchange motivation which will fundamentally incorporate electronic trade.
- India can possibly be the most unmistakable spot of electronic business because of being a third biggest spot as far as Internet use.
- As India is the center of KPO and BPO and mainstream for body shopping, India's fundamental premium and center region ought to be from one viewpoint to give viable business sector getting to its experts and gifted work power and on the other to realize a concurred consistency in the development of capital and work.
- India ought to keep on supporting the IPR administration while requesting representation on standard setting bodies, for example, ICANN. India ought to likewise request a less demanding and more reasonable getting to the discretion system at WIPO in the matter of disagreements regarding space names.
- India necessities to plan systems to getting the creation and supply chains at different stages in the developing worldview of e-exchange.

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