A CRITICAL ANALYSIS OF MERGER AND ACQUISITION IN INDIA

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ABSTRACT

The concept of merger and acquisition is very much popular in the current scenario, so it is significantly popular concept after 1990s where India entered in the liberalization, privatization and globalization (LPG) era. The winds of LPG are blowing over all the sectors of the Indian economy but it's become hyper-competitive and to face international and multinational companies, India companies are going for merger and acquisition. Basically a merger involves a marriage of two or more entities. Merger is defined as blending entity will become the substantially the shareholder in the entity which is to carry on the blended entity. Merger and acquisition have been a very important marker entry strategy as well as expansion strategy. The present era is known as competition era. In this era companies, to avoid the competition, go for merger, and enjoy sometimes monopoly. Corporate India is waking up to the new millennium imperative of mergers and acquisition in a desperate search for a panacea for facing the global competition. This hardly surprising as stiff competition is, in a sense implicit in any to integrate the national economy with the global economy. The ongoing process of liberalization has exposed the unproductive use of capital by the Indian corporate both in public and private sectors. Consolidation through mergers and acquisition is considered one of the best ways of restricting structure of corporate units. In the case of internal expansion or by external expansion. In the case of internal expansion, a firm gradually over tie in the normal course of the business, through acquisition of new assets, replacement of the technologically overnight through corporate combinations. These combinations are in the form of mergers, acquisitions, amalgamations, and takeovers and have been now become important features of corporate restructuring. They have been playing an important role in the external growth of a number of leading companies the world over. They have become popular because of the enhanced competition breaking of trade barriers, free flow of capital across countries have also started restructuring their operations around their core business activities through merger, acquisition and takeovers because of their increasing exposure to competition both domestically and internationally.

INTRODUCTION

Merger and acquisitions are part of corporate strategy, corporate finance and management that deals with the purchasing, selling and combining of different companies. Mergers and acquisitions have become significant strategic tools in modern corporate finance, management, and business expansion. They involve the consolidation, purchase, sale, or combination of companies to achieve rapid growth, enhance financial strength, and improve competitive positioning in both domestic and international markets. In an increasingly globalized economy, businesses often rely on Mergers and acquisitions strategies to expand market share, diversify operations, access new technologies, and establish a broader consumer base without the lengthy process of building new enterprises independently. Since the 1980s, the volume of mergers and acquisitions has grown substantially across various industries, particularly in the financial sector, where interconnection and competition drive consolidation. Companies pursue Mergers and acquisitions for multiple reasons, including achieving economies of scale, operational synergies, market dominance, tax benefits, and resilience against economic uncertainties. These transactions are often motivated by the desire to acquire valuable assets, improve organizational efficiency, and strengthen long-term profitability. The impact of Mergers and acquisitions extends beyond individual corporations to broader economic systems[1]. At the macroeconomic level, mergers and acquisitions contribute to productivity enhancement, capital redistribution, and knowledge transfer across sectors. At the micro-economic level, they influence corporate earnings, debt structures, growth potential, taxation, and overall financial performance. However, despite their strategic advantages, many Mergers and acquisitions transactions face challenges such as overvaluation, integration failures, cultural conflicts, inadequate planning, and workforce resistance, which can hinder their success. However, despite their potential benefits, mergers and acquisitions often face significant challenges and may fail due to overestimated synergies, excessive purchase premiums, poor planning, unsuccessful integration, and flawed deal structures. Internal conflicts, workforce struggles, cultural mismatches, and reduced organizational flexibility can further complicate the process, limiting the anticipated advantages. Therefore, while merger and acquisition remains a powerful strategic tool for corporate growth and market dominance, its success largely depends on careful planning, realistic valuation, and effective post-merger integration. Therefore, understanding the motives, benefits, challenges, and outcomes of mergers and acquisitions is

[1] https://www.mapsofindia.com/states/ (Accessed on16/4/2018)

essential for evaluating their role in corporate development and economic progress. This study aims to examine the strategic significance of Mergers and acquisitions its driving forces, and the factors that determine its success or failure in the contemporary business environment.

SIGNIFICANCE OF THE STUDY

The concept of mergers and acquisitions gained significant prominence in India after the 1990s, following the country's adoption of Liberalization, Privatization, and Globalization (LPG) policies. These economic reforms opened Indian markets to global competition, transforming the corporate landscape across various sectors. As competition intensified with the entry of international and multinational corporations, Indian companies increasingly turned to mergers and acquisitions as strategic tools for survival, expansion, and strengthening their market position. A merger essentially refers to the combination of two or more business entities into a single organization, where the shareholders of the merging companies substantially become shareholders of the newly formed entity. Corporate growth can occur either through internal expansion or external expansion. Internal expansion involves gradual growth through regular business operations, such as acquiring new assets, upgrading technology, and expanding production capacity. In contrast, external expansion enables rapid growth through corporate restructuring methods such as mergers, acquisitions, amalgamations, and takeovers[2]. These corporate combinations have become important features of modern business strategy, allowing firms to achieve quick market penetration, operational efficiency, diversification, and competitive advantage. Globally, leading companies have extensively used mergers and acquisitions to restructure their operations around core business activities. In India, the increasing exposure to both domestic and international competition, coupled with the removal of trade barriers and the free flow of capital, has further accelerated the trend of corporate restructuring through mergers and acquisitions. Consequently, mergers and acquisitions have emerged as essential mechanisms for corporate growth, economic resilience, and global competitiveness.

OBJECT OF THE STUDY

A corporate merger or acquisition can significantly influence a company's long-term growth prospects. While acquisitions may rapidly expand the acquiring company's market presence,

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[2] http://www.economywatch.com/mergers-acquisitions/ohistory.html (Accessed on 16/4/2018)

operational capacity, and competitive advantage, they also involve substantial risks. One of the most critical challenges is the possibility of overpaying for the target company or failing to effectively integrate the operations, cultures, and management structures of the two organizations. The employment effects of mergers and acquisitions vary depending on the nature and structure of the transaction, though empirical evidence on this subject remains limited. In cases of simple sales, where ownership changes without substantial organizational integration, and in certain real mergers, employment levels often experience significant reductions due to restructuring, redundancy elimination, and cost-cutting measures. Conversely, when companies combine to form a new integrated entity, mergers may create opportunities for expansion, operational growth, and increased employment. Therefore, the impact of mergers and acquisitions on employment largely depends on the strategic objectives, integration process, and management decisions associated with the corporate restructuring.

DEFINITIONS OF MERGER AND ACQUISITION AND AMALGAMATION

MERGER: Merger is defined as combination of two or more companies into a single company where one survives and the other lose their corporate existence. The survivor acquires the assets as well as liabilities of the merged company or companies. "a combination of two or more corporate entities into one single entity"

According to the oxford Dictionary the expression or amalgamation means combining of two commercial companies into one" and ‘ ‘ merger of two or more business concerns into one" respectively[3].

ACQUISITION: Acquisition in general sense is acquiring the ownership in the property. Acquisition is the process through which one company takes over the controlling interest of another company. Acquisition includes obtaining supplies or services by contract or purchase order with appropriated funds, for the use of federal agencies through purchase or less[4].

AMALGAMATION: It means "combination of two or more independent business corporations into a single". Enterprise. Halbury’ s laws of England described amalgamation as a blending of two or more existing undertakings into one undertaking, the shareholders of each blending company becoming substantially the shareholders in the company which is to carry

[3] J.c verma ‘*corporate merger and acquisitions & take overs* ‘4th Editition

[4] ibid

on the blended undertaking[5]

DEFINITION OF COMBINATION AND TAKE OVER AND JOINT VENTURES

COMBINATION: Combination refers to mergers and consolidation as a common term used interchangeably but carrying legally distinct interpretation all mergers, acquisitions and amalgamations are business combinations[6].

TAKE OVER: A takeover generally involves the acquisition of a certain block of capital of a company which enables the acquirer to exercise control over the affairs of a company. Normally merger, amalgamation, acquisition, takeover are used interchangeably[7].

JOINT VENTURES: The two or more entities may together at a single point for specific purposes. It may or may not be limited jurisdiction. The main purpose of joint ventures, specifically assemble for the new business or market. The joint venture is arising out form the agreement basis. This agreement contains the rights and obligation of each party in norms of joint venture. It leads to creation of new companies. The bye laws of the joint venture company would incorporate the agreement between the joint venture parties[8].

DIFFERENCE BETWEEN THE MERGER AND ACQUISITIONS

Difference between merger and acquisition is subtle. It is true that the terms merger and acquisitions are used in a way that it seems, both are synonymous. But, the fact is that, there is a slight difference in the two concepts. The merger, two firms, together, forms a new company. After merger, the separately owned companies become jointly owned and get a new single identity. When two firms get merged stocks of both the concerns are surrendered and new stocks in the name of new merged company are issued. Generally, mergers take place between tow companies of more or less of some size. In this case, the process is called merger of equals. But, in case of acquisitions, one firm takes over another and establishes its power as the single owner. Here, generally, the firm which takes over is the bigger and stronger one. The relatively less powerful smaller firm loses its existence after acquisition and the firm which takes over, runs the whole business by its ‘own identity. Unlike merger, in case of acquisition, the stocks

[5] ibid
[6] Corporate Mergers , Amalgamations and Takeovers ; JC Verma , 4th Edition 2002 pg 39
[7] ibid
[8] ibid

of the acquired firm are not surrendered. The stocks of the firm that are brought by the public earlier continue to be traded in the stock market. But, often mergers and acquisitions become synonymous, because in many cases, the big firm may buy out a relatively less powerful one and thus compels the acquired firm to announce the process as a merger. Although, in reality an acquisition takes place, the firms declare it as a merger to avoid any negative impression. Another difference between merger and acquisition is that, when a deal is made between two companies in friendly terms, it is proclaimed as merger, even in case of a buyout. But, if it is an unfriendly deal, where the stronger firm swallows the target firm, even when the target company is not willing to be purchased, then it is called an acquisition.

SCHEME OF MERGERS AND ACQUISITION AMALGAMATION

The most important document in the process of merger and amalgamation is the scheme of merger, which is like the blue print of the merger transaction It covers the entire transaction of the merger, the method of valuating the merging companies the share exchange ratio the legal rights and obligations of both the transfer company and the transfer and their members, creditors and other effected parties.

SCOPE OF THE SCHEME

The Companies Act 2013 is a code in itself[9] .once a compromise and arrangement falls within the corners of this section, it can be sanctioned, even if its involves doing acts for which the entire procedure is specified in the other sections of the Act. A scheme which satisfies the requirement of these sections can be sanctioned. The Scheme framed under the act is not an alternative mode of liquidating a company it is only an alternative to liquidation. The schemes for arrangement are different both in the principle and in the after effects as that of winding up. [10] Where a scheme seems to be workable and also according with the moral principles of commercial law it should be preferred to a winding up order.[11] The scheme under sections 230/234 of the Act is a complete and comprehensive code and it empowers the court to sanction a scheme though the scheme involves acts, which apart from such sanction would be ultra vireos the company. However this rule is subject to the limitation that if the Act contains express provision enabling doing of the Act in a particular way, the provision of that section

[9] Section 230 The companies act 2013
[10] Himalaya Bank Ltd v. Roshan Lala AIR 1961 Punj 350
[11] Re Manekchowk and Ahemdabad Mfg Co Ltd (1970) 40 Comp Case 819, p 850

and not of 230 should be followed. Where a scheme of merger envisaged that shares held by the transfer company, in the transfer company are to be automatically canceled on the scheme being sanctioned the court sanctioned the scheme. It was held that the provisions of section 101 of Companies Act, 1956 (Now section 66 of the Companies Act,2013) would not apply in a case where there is reduction in the share capital of the company by virtue of amalgamation of two companies and in a case where the transfer company held the shares in a transfer company[12].

CONCLUSTION

Mergers and acquisitions have been prompted by a number of strategic imperatives. Consolidation, increased integration, market expectations, capital market expectations, and product expectations, differentiation in line with customer demands, technology requirements, vertical integration, strategic shift in focus, are among them, rehabilitation of loss making units. Several distinct trends that are emerging decide the quantum of merger and acquisition activity in India the near future. There is ever increasing competition from local and foreign players. The influx of foreign institutional investors has put a spotlight on business performance and governance. The cost of capital is becoming increasingly tied to the performance of the management with the privatization of institutions, there would be even more pressure on companies to perform. Financial institutions and mutual funds are beginning to face the importance of corporate. The depreciation of the money value in countries like India becomes both an opportunity as well as a threat, for the international players to acquire companies. Financing is no longer an impediment to merger and acquisition activities. Monopolization of joint ventures by foreign partners is a recent trend in Indian Industry. The ongoing merger and acquisition through constant restructuring, will have an impact on Indian industries. In terms of the correlation between foreign direct investment foreign direct investment inflows and merger and acquisition India is slowly but steadily catching up with the worldwide trend. Multinational corporation interested in entering high-growth areas such as pharmaceuticals, software, and services are likely to engage in merger and acquisition activity in India. There was significant growth of mergers and acquisitions in India post the 1990s. Mergers and acquisitions activity hiked in the year 2006. Until 2000, mergers of companies belonging to the same business groups and operating in similar product lines seemed to be the norm, but since

[12] Section 66 The companies act 2013

then, companies have boosted their M&A activity in order to diversify their product lines. That is, mergers and acquisitions are utilized not only for company restructuring, but also for market expansion and entry to new markets.

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