

# Joint Venture and Shareholder Dispute Advisory

*Helping our clients handle conflict situations*

In the last few years, India has witnessed an increasing number of joint venture (JV), financial investor and shareholder disputes emerging against the backdrop of an uncertain macroeconomic environment, volatile industry dynamics and sluggish equity markets.

Recent allegations by large financial investors concerning fudging of accounts by investee companies, mismanagement, siphoning of funds, and fraudulent behaviour or have raised several unanswered questions.

## ***How stress develops between shareholders in the course of the growth story***

- Weak corporate governance standards
- Disagreement, either strategic or operational in nature
- Technology sharing and intellectual and property rights (IPR) related issues over ownership and royalty rate
- Lack of parity in size, ownership, management control and contribution
- Breach of terms of JV agreement or business
- Lack of transparency in use of funds
- Revenue leakage, cash generation and non-compliance with anti-bribery and corruption laws
- Failure to achieve the proposed business plan and revenue targets
- Disagreement over valuations at exit, especially in case of put options

## ***Top 10 disputes among JV partners and shareholders***

- JV disputes
- Shareholder disputes
- Questionable related-party transactions
- Disagreement on business plans
- Intellectual property disputes
- Cost overruns in capital projects
- Purchase price disputes
- Out-of-court settlements
- Questionable fund utilisation
- Exit disputes



### *Investment stage ‘proactive mechanism’*

- Conduct integrity due diligence or background checks on potential investee company or JV partner (pre-investment)
- Seek disclosures on related parties of local partner/management
- Seek mutual agreement and clarity on business plan and forecasts
- Include adequate dispute resolution mechanism and clauses
- Address business, financial and commercial risks in the JV/shareholder agreements
- Include clauses for right of inspection of books of entity in specific situations
- Develop robust management information system (MIS) reporting mechanism for JV partners-strategic shareholders
- Review of company operations for establishing appropriate use of funds



### *Pre-formal dispute situations and litigations*

- Critically examine factors for failure of association
  - between JV partners or shareholders
  - Assist in firming up position on your exit strategy
  - Assist in exercising right of inspection of books
  - Evaluate underperformance of business plan
- Provide valuation and negotiation support:
  - Carry out pricing analysis to determine fair value of the business or the stake held
  - Carry out valuation as per the shareholder agreement and/or the local laws, as applicable
- Assess the business, financial and commercial impact of clauses in JV/shareholder agreements
- Assist you in retaining critical written correspondence and other information in electronic form
- Assist in protecting your brand, technology and other IP given without ownership transfer



### *Dispute, litigation and arbitration support*

- Expert witness testimony
- Litigation valuations
- International arbitration and mediation
- Quantification of damages/claims
- Quantification of wasted expenditure/past profits
- Quantification of loss of future profits

## Contact us

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Data Classification: DC0

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AW/September 2018-14586