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Elements of
MERCANTILE LAW

N.D. Kapoor



ELEMENTS OF
MERCANTILE LAW



Scheme of the Book

The Book has been divided into Three Volumes :

Volume One consists of Four Parts. *Part One* attempts to explain the general principles of the 'Law of Contract' and provides a background against which the Special Contract dealt with in Part Two can be seen in a clearer perspective. *Part Two* deals with some 'Special Contracts'. *Part Three* is concerned with 'Law of Insolvency'. *Part Four* deals with 'The Consumer Protection Act, 1986'; 'The Foreign Exchange Management Act, 1999'; 'The Information Technology Act, 2000', 'The Competition Act, 2000' and Amended in 2002 and a New Chapter on 'Goods & Services Tax (GST)'.

Volume Two of the book on Company Law with Schedules has been thoroughly updated as per Companies (Amendment) Bill, 2020 which was introduced in Lok Sabha on 17-3-2020.

Volume Three deals with Industrial Law and has Seven Parts. *Part One* deals with 'Working Conditions'. *Part Two* deals with 'Social Security'. *Part Three* deals with 'Disputes'. *Part Four* deals with 'Standing Order', *Part Five* deals with 'Workers' Organisations', *Part Six* deals with 'Bonus' and *Part Seven* deals with 'Miscellaneous'.

Each Chapter in Volume One is followed by a summary of the important provisions, Test Questions and Practical Problems (with Hints and Solutions). In Volumes Two and Three, only Test Questions and Practical Problems (with Hints and Solutions) have been given at the end of each chapter.

Important (A Service to Students)

For students preparing for different examinations, the following special editions of *Elements of Mercantile Law* have been prepared with the twin objective of (a) lowering the price, and (b) including in a special edition of a book only the precise portions which are required for the particular course:

- *Legal & Regulatory Framework of Business* for M.B.A.
- *Law, Ethics & Communication* for Chartered Accountants, Professional Competence Course
- *Business Law* for Cost Accountants, Intermediate Course
- *Business Law* for B.Com. (Hons.) Course of University of Delhi
- *Business Law and Industrial Law* for B.Com. Programme of University of Delhi.
- *Company Law and Compensation Laws* for B.Com. Programme of University of Delhi.
- *Business Law* for B.Com. Course of Madras University.
- *Business Law* for Common Core Syllabus of B.Com. Course of A.P. State Universities.
- *Business Law* for B.Com. III Year Course of Bangalore University.

ELEMENTS OF

MERCANTILE LAW

Including Company Law and Industrial Law
*[For B.Com. and B.B.M. Courses of all Indian Universities, M.B.A. and
I.A.S. Examinations and other Professional Courses]*

N.D. KAPOOR

*Formerly, Head of the Department of Commerce
Hans Raj College, University of Delhi, Delhi*



SULTAN CHAND & SONS®
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Preface

To the Thirty-ninth Edition

We have great pleasure in presenting the 39th Revised and Enlarged Edition of the book entitled “*Elements of Mercantile Law*” to our esteemed readers. The new edition, like its predecessors, attempts to present the basic principles of Mercantile Law, Company Law and Industrial Law in a way that makes the subject easily intelligible even to a non-specialist. This object has been achieved by –

- (a) explaining the subject with the help of 40 Case Laws, 496 illustrative cases and they have been highlighted by using boxes and different type face to make it more reader friendly and easily assimilated by the reader;
- (b) showing how law is derived from Statutes and Decided Cases and how the Principles of Law are applied to the problems which arise in day-to-day life and in the conduct of business;
- (c) giving a summary of important provisions at the end of each chapter in Volume One so that the reader can recapitulate what he has learnt; and
- (d) giving 562 Objectives Type Questions, 825 Test Questions and 576 Practical Problems (with Hints and Solutions) with the idea of testing the depth of knowledge of the reader, basic understanding of concepts and his ability to apply whatever he has learnt to a particular situation or problem.

The Book explodes the myth that law is a difficult and dry subject. Even a lay or general reader who wishes to know the broad principles of Mercantile Law will find the discussion interesting and lively. Care has been taken to see that the reader at the primary stage of his study does not find himself lost in the quagmire of legal jargon and in the niceties of legal concepts and interpretations.

The salient features of the present edition are as follows:

1. A new chapter on ‘Goods and Services Tax (GST)’ has been included in this edition. In order to bring uniformity in Tax rates and to simplify the tax mechanism, Central Government rolled out Goods and Services Tax (GST) from 1st July, 2017. GST is considered to be a path breaking and biggest tax reform since independence. It is a single indirect tax levied on the supply of goods and services for the entire country, which has made India a unified common market, “One Nation-One Market-One Tax”.
2. ‘The Insolvency and Bankruptcy Code, 2016’ is the Bankruptcy Law of India. The Insolvency and Bankruptcy Code Bill, 2015 was introduced in Lok Sabha on 21st December, 2015 and by

Rajya Sabha on 11th May, 2016. The Code received the assent of the President of India on 28th May, 2016.

3. A chapter on 'Limited Liability Partnership' popularly known as LLP has been added in the present edition. LLP combines the advantage of both the Company and Partnership into a single form of organization. The Limited Liability Partnership Act, 2008 was published in Official *Gazette* of India on 9th January, 2009 and has been notified with effect from 31st March, 2009.
4. Volume II of the book on Company Law with Schedules has been thoroughly updated as per Companies (Amendment) Bill, 2020 which was introduced in Lok Sabha on 17-3-2020. The Bill was passed and converted into an Act by Parliament on 22-9-2020. Various provisions of the Amendment Act were had been made effective from time to time on 21-12-2020, 22-1-2021, 11-2-2021, 18-3-2021, 24-3-2021, 1-9-2021, and 1-7-2022. The Companies (Amendment) Act 2020, introduced several significant changes to the Companies Act, 2013. Here are some of the key features:
 - (a) **Producer Companies:** The amendment introduces a new chapter specifically addressing producer companies, removing certain provisions from the Companies Act, of 1956, and incorporating similar provisions in the Companies Act, 2013.
 - (b) **Changes to Offences:**
 - Removal of penalties for certain offenses.
 - Elimination of imprisonment in specific offenses.
 - Reduction in the maximum fine for certain violations, such as failure to file annual returns.
 - (c) **Penalty Reduction for Small Companies and One-person Companies**
 - Extension of the provision allowing reduced penalties (up to 50%) for one-person companies and small companies to all producer companies and start-up companies.
 - Extension of the provision to cover violations of any provision of the Act.
 - Limitation of the maximum penalty to two lakh rupees for the company and one lakh rupees for a defaulting officer.
 - (d) **Direct Listing in Foreign Jurisdictions:** The central government is empowered to permit certain classes of public companies to list classes of securities in foreign jurisdictions.
 - (e) **Beneficial Shareholding:** Empowerment of the central government to exempt certain classes of persons from compliance with the requirements related to the declaration of interest in case of beneficial shareholding.
 - (f) **Exemptions from Filing Resolutions:** Extension of the exemption from filing resolutions related to borrowing money or granting loans to include registered non-banking financial companies and housing finance companies.
 - (g) **Corporate Social Responsibility (CSR)**
 - Exemption for companies with CSR liabilities of up to ₹ 50 lakh a year from constituting CSR Committees.
 - Provision for setting off excess amounts spent on CSR in a financial year towards CSR obligations in subsequent years.

- (h) **Periodic Financial Results for Unlisted Companies:** Empowerment of the central government to require certain classes of unlisted companies to prepare and file periodical financial results and complete the audit or review of such results.
5. To improve the grasp and understanding of the subject-matter, more questions like – 526 Objective Type (Multiple Choice, Fill in the Blank, True and False) have been updated.
 6. New Typography of the book makes the book strain-free and reader friendly.
 7. A comprehensive “Subject Index” adds to the value of book facilitating readers to easily search the topic of his / her interest.

We acknowledge with gratitude the help received from scholars, friends and well-wishers at the various stages of preparation of this Revised Edition. Suggestions are invited to further improve the book. Kindly share your views at info@sultanchandandsons.com

Editorial Team
Sultan Chand & Sons

To the First Edition

The chief aim in writing this Book is to present the fundamental principles of Mercantile Law, Company Law and Industrial Law in a simple and easily intelligible manner. The intricate points of law have been illustrated by examples, and the subject has been dealt with by topics rather than in the strict order of Sections in the various Acts. This has been done to avoid cross-referencing to enable the students to grasp each aspect of the subject thoroughly.

The Book is unusual in simplicity with which the various topics have been dealt with. At the same time, the treatment of the subject is both comprehensive and easy to follow.

The subject has been discussed in the light of Statute law and *ratio decidendi*. At places, reference has also been made to English Law which is the most important source of Indian Mercantile Law.

February 13, 1967

N.D. KAPOOR



Snapshot of the Book

Volume I – LAW OF CONTRACT

<i>Chapter Name</i>	<i>Examples</i>	<i>Objective Type Questions</i>	<i>Test Questions</i>	<i>Practical Problems</i>	<i>No. of Pages</i>	<i>Pages</i>
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<i>Chapter Name</i>	<i>Examples</i>	<i>Objective Type Questions</i>	<i>Test Questions</i>	<i>Practical Problems</i>	<i>No. of Pages</i>	<i>Pages</i>
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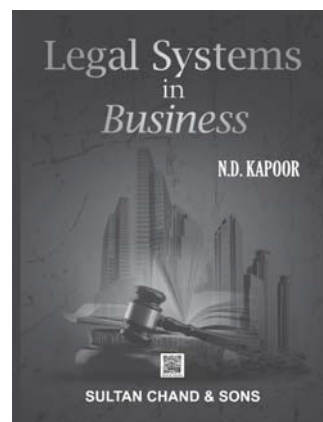
Objects and Reasons | Definitions | Collection of Statistics | Disclosure of Information in Certain Cases and Restrictions of their Use | Offences and Penalties | Power in Respect of Core Statistics | Miscellaneous | Test Questions

Legal Systems in Business

N.D. Kapoor

About the Book

The Second revised and enlarged edition of the book entitled “Legal Systems in Business”. The book contains 38 chapters in which 22 chapters of Law of Contract and Special Contracts in Volume I, 9 chapters of Company Law in Volume II and 7 chapters of Other Laws in Volume III. The new edition attempts to present the ‘Law of Contract’ in which the General Principles of Law of Contracts, the ‘Company Law’, the Labour Law and the ‘Other Laws’ in a way that makes the subject easily intelligible even to a non-specialist.



Salient Features

- The Company Act, 2013 (Schedules) has been thoroughly updated and amended up to 2020 to our esteemed readers.
- The Designs Act, 2000 has been included in the Intellectual Property Rights.
- The Contract Labour (Regulation and Abolition) Act, 1970 has also been including under Labour Laws.
- The Securities and Exchange Board of India Act, 1992 has been provided as a separate chapter under Other Laws.
- The intricate points of law have been illustrated by examples, and the subject has been dealt with by topics rather than in the strict order of Sections in the various Acts.
- The book shows how the principles of law are applied to the problems which arise in day-to-day conduct of business.
- It gives a summary of important provisions at the end of each chapter so that the reader can recapitulate what he has learnt.

Contents

Volume I – Law of Contract – Introductory – **Part One – General Principles of Law of Contract:** Nature of Contract • Offer and Acceptance • Consideration • Capacity to Contract • Free Consent • Legality of Object • Void Agreements • Contingent Contracts • Performance of Contract • Discharge of Contract • Remedies for Breach of Contract • Quasi-Contracts • **Part Two – Special Contracts:** Indemnity and Guarantee • Bailment and Pledge • Contract of Agency • Sale of Goods • Conditions and Warranties • Transfer of Property • Performance of Contract • Rights of an Unpaid Seller • Partnership Act • Negotiable Instruments.

Volume II – Company Law – Nature of Company • Kinds of Companies • Formation of Company • Memorandum of Association • Articles of Association • Prospectus • Management of the Company • Accounting and Audit • Winding Up of Companies – Different Models of Winding Up.

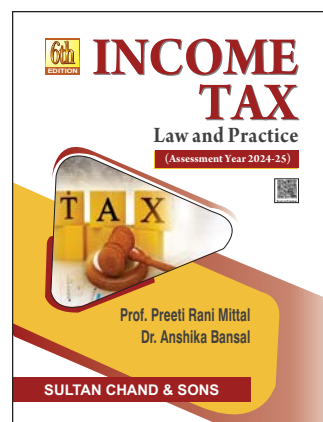
Volume III – Other Laws – The Consumer Protection Act, 1986 • The Competition Act, 2000 • The Information Technology Act, 2000 • The Intellectual Property Rights • The Foreign Exchange Management Act, 1999 • Labour Laws • The Securities and Exchange Board of India Act, 1992.

Income Tax Law and Practice (Assessment Year 2024-25)

Prof. Preeti Rani Mittal
Dr. Anshika Bansal

Contents

Salient Features of Finance Act, 2024 • Income Tax for Non-resident: Taxable Income & Deduction • Basic Concepts of Income Tax • Residential Status • Income Exempt from Tax • Income from Salary • Income from House Property • Profit and Gains of Business or Profession • Determination of Income on Presumptive Basis • Depreciation • Capital Gains • Income from Other Sources • Clubbing of Income • Set-off and Carry Forward of Losses • Deductions to be Made in Computing • Total Income • Assessment of Agricultural Income • Computation of Total Income and Taxation of an Individual • Assessment of Hindu Undivided Family • Assessment of Firms (Including LLP) • Rebate and Relief of Tax • Return of Income and E-filing Procedure • Tax Deducted at Source and E-TDS Return • Assessment Procedure • Leading Cases of Supreme Court and High Court.



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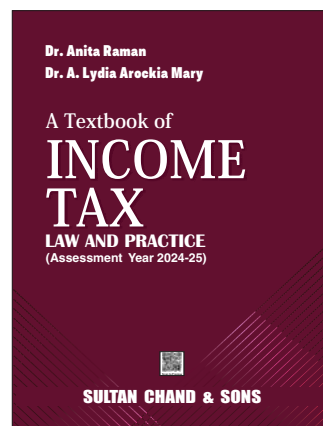
A Textbook of Income Tax Law and Practice (Assessment Year 2024-25)

Dr. Anita Raman
Dr. A. Lydia Arockia Mary

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Introduction to Income Tax • Basic Concepts • Residential Status and Incidence of Tax or Scope of Income • Income from Salary • Income from House Property • Profits and Gains from Business or Profession-I • Profits and Gains from Business or Profession-II / Depreciation • Income from Capital Gains • Income from Other Sources • Clubbing of Income / Aggregation of Income • Set-off and Carry Forward of Losses • Deductions from Gross Total Income • Income Tax Authorities and Procedure of Assessment • Assessment of Individuals, Firms and Hindu Undivided Family • Goods and Services Tax (GST) • Transfer Pricing (Chapter X of Income Tax Act of 1961) • Highlights of Finance Bill 2024 and Tax Rates for the Assessment Year 2024-25

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Alternative Dispute Resolution (ADR): Concepts and Methods

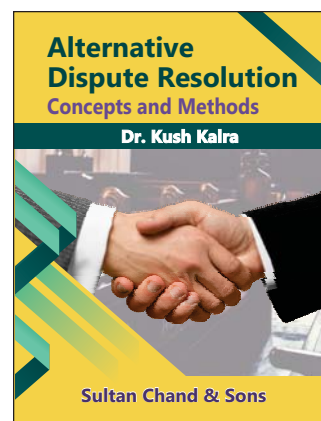
Dr. Kush Kalra

About the Book

The goal of Alternative Dispute Resolution is to resolve disputes between parties in a more cost-effective and timely manner. As the name implies, Alternative Dispute Resolution (ADR) is a less adversarial method of resolving disputes than courts. The tedious processes of litigation, expense, and inadequacies of the court system are the key reasons for the ADR's inception or need. It has the ability to deliver relief quickly and at a low cost. The current adversarial system is unable to provide true justice between the parties.

A wide range of processes are characterised as Alternative Dispute Resolution Processes. Conflict resolution processes that are not adjudicated through court proceedings are typically referred to as alternative dispute resolution procedures. These approaches usually involve a neutral third party, a competent assistant who either supports the parties in a dispute or conflict in reaching an agreement or enables the parties in the disagreement in finding a solution to the problem. Because of the methods adopted, the alternative conflict resolution mechanism can preserve and enhance personal and business ties that would otherwise be harmed by the adversarial process.

This book is supposed to be useful for Judges, Advocates, Lawyers and Law Students. The beauty of this book is that it will be of good use to one and all who are curious to know and study about the Alternative Dispute Resolution & Law.



Contents

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- Arbitration
- Conciliation
- Mediation
- Negotiation
- Landmark Cases on ADR
- Online Dispute Resolution
- Law Commission Report on Need For Justice-Dispensation Through ADR Etc.
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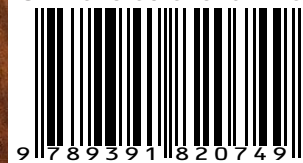
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