



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

Peer-reviewed, open-access, refereed journal

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www.ijlar.com

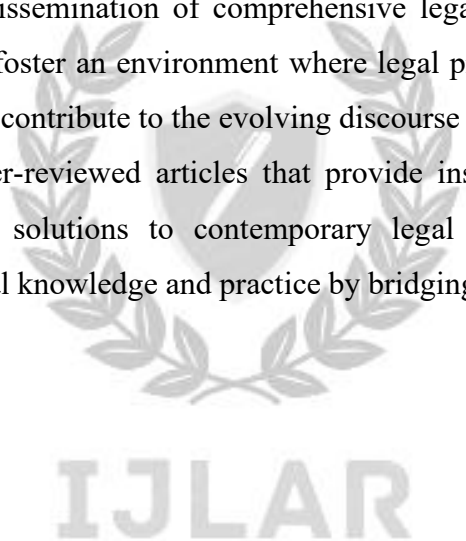
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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.



Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

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Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

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“FUELING INNOVATION OR FACILITATING ILLICIT FINANCE”: MONEY LAUNDERING RISKS IN INDIA'S STARTUP BOOM

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ABSTRACT

Money laundering is one of the major concerns in the present economic system. It is the method in which the black money accumulated through various illegal means are converted into legal currency through authoritative sources. Among this method of money laundering, one of the major methods is the process of investments. Tax payers tend to invest in the various platforms where they are exempted from being taxed. Thus, people tend to invest the tax escaped at source and thus deviating themselves from paying tax. This major concern tends to have a greater impact on the Nation's economic growth. To prevent this, the Indian Government framed strict laws called the Anti- Money Laundering laws to prevent money laundering by providing stringent provisions and punishments. In recent times, startups have become one such platform for money laundering. The government on one hand provides various tax exemptions and tax holidays various schemes to foster innovation and development through startups but on the other hand there is a high chance of illicit funds being dumped into such investments. The abolition of angel tax in the Finance Act 2024 has also liberated the investment. The investments without any tax restrictions has made the way for investing tax escaped income from source. There is a high need to focus on the money laundering that is happening behind the startup investment and entrepreneurial development that is leading to the viral attack on the Indian economic Ecosystem. These tax regulations are mitigated over the genuine investors trying to sell an idea and get investments over it, but at the same time the money laundering happening behind the screen cannot be left unnoticed. The paper mainly focuses on the need for a regulatory mechanism preventing money laundering through startup investments while also promoting the startup growth fostering innovations by reforming tax incentives.

KEYWORDS: *Startup, Money laundering, Taxation, Angel Tax, KYC, Round tripping, AML.*

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INTRODUCTION:

India is experiencing a high development in entrepreneurial enthusiasm in recent days stimulated by government's support in fostering innovations and promoting business growth. To foil up, the government introduced several initiative schemes including START UP INDIA, aiming to create a supportive environment for start-ups to develop their ideas. Consequently, the government offers different tax incentives to help the start-ups expand their operations. The start-ups seek funds from both local and overseas investors, who are referred to as "angel investors." The startups also receive funding through FDI and venture capital investments. Recently, the Indian government has eliminated several tax burdens on startups to encourage young entrepreneurs, and it has abolished the angel tax on Indian startups, which significantly hindered money laundering via investments. Currently, India ranks 3rd globally in the development of startups. It has launched numerous initiatives such as Atal Innovation Mission, MUDRA bank, Startup India, tax benefits, and the establishment of Gift City, thereby facilitating the Reverse Flipping of companies which has resulted in a rise in unicorns in the nation. These tax benefits and leniency regarding startup investments intend to stimulate the country's economic development; however, they have also turned into a center for money laundering, where individuals often launder their funds by investing in startups and obtaining tax exemptions on unreported money.

STARTUP ECO SYSTEM IN INDIA:

In the past twenty years, India's startup environment has grown very quickly. In the 2000s there were not many startups as they lacked sufficient investments. However over the ten years there has been a big increase in new startups with governmental support by providing various schemes. Bangalore, being known for its strong innovative system has now become the startup hub. Other cities, such as Mumbai, Delhi are also growing their branches. Smaller cities are contributing to the growth of startups showing that startup activity is happening all over the country.

A startup ecosystem² is made up of people, organizations and resources that work together to help new businesses develop. This ecosystem is very important for startups to succeed.

² The Department for the Promotion of Industry and Internal Trade ("DPIIT") of the ministry of Commerce and Industry has issued a new notification bearing number G.S.R 127 (E) dated 19th November 2019-The definition of "startup" has been amended to mean an entity which has been incorporated for a period of ten years (as opposed to the earlier period of 7 years) provided it has not crossed 100 crores in revenue in any of the past ten years.

The startup ecosystem is made up of three elements.

1. **Startups** are business platforms that support new ideas and innovations bringing them to reality. They grow fast and also tend to obtain investments faster. For notably including companies like Uber, Airbnb and Snapchat as examples.
2. **Enablers** are people and organizations that help startups work and grow. This group usually includes investors, incubators, accelerators and universities.
3. **Ecosystem partners** are organizations that work together and help the startup ecosystem. These partners often include government agencies, established companies and service providers.

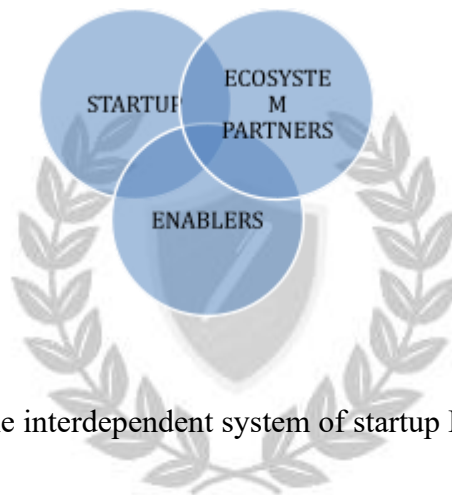


Fig 1: The interdependent system of startup Ecosystem

India currently has over 60,000 startups. This number is expected to increase in the future. The main reasons for the growth of the startup ecosystem are the young people and the large number of engineers. India has a larger population of creators with innovative ideas and also investors for the same.

The government has provided startups with various support programs like the Startup India initiative, by providing various benefits and incentives including tax relief and financial support.

The growth of venture capital firms and angel investors has now become an easier route for Startups to seek funding. This has resulted in startups receiving a lot of capital for its investment. India also benefits from a growing pool of engineers and entrepreneurs including people who return from other countries. The culture in India supports entrepreneurship as seen in startup events, working spaces and incubators. Incubators and accelerators are important for providing resources and assistance to businesses. Venture capital companies provide financing and support. However there are still challenges, including a lack of early-stage funding and

experienced mentors as well for the need of better infrastructure. Despite these challenges the startup ecosystem in India is expected to continue growing and succeeding.

In general the Indian startup ecosystem has developed rapidly with an increase in startups and the improvement of support systems in various areas making India an exciting center for innovation and entrepreneurship.

Growth of startups in India:

Some of the reasons include:

- ***The talent pool:*** India has a pool of talented people with a primarily young population. Every day millions of students graduate from universities and business schools. Many of them use their skills to start their own businesses, which has fueled the startup expansion in India.
- ***Cost of setting up a business:*** India relies more on labor than capital and the workforce can be hired at very low costs. This makes the cost of starting a business in India low compared to other countries.
- ***Government support:*** Startups in India have obtained a significant growth in these recent ten years due to various initiatives by the government including schemes such as Startup India and Stand-up India.
- ***Rising internet usage:*** India being the largest populated country has now become the largest Internet user base after the launch of various affordable services including reliance jio. The usage has increased even in the rural areas. The startup ecosystem in India is not about promoting new businesses but also about collecting fresh information. Thus communication has become significantly simpler. Thus serving as one of the contributor for the growth of startup in India.
- ***The emergence of technology:*** This has streamlined numerous business processes making them fast, simple and effective. Significant advancements in software and hardware systems have made data storage and recording a much simpler process. Due to the trend surrounding intelligence and blockchain numerous new startups are exploring these possibilities too.
- ***Funding choices:*** The range of funding choices is also a factor. In the past there were a few conventional ways to secure funds for a new business concept, such as taking loans from banks or obtaining money from relatives and friends. Nevertheless this idea has now transformed. There exists a variety of choices and opportunities making startup

founders seek out angel investors, venture capitalists, seed funding and more.

Obstacles faced by Indian Startups: marketing, financial and tax complications. Some of the challenges include promotion hurdles, rivalry from suppliers, company branding, disordered and scattered markets and establishing actual companies. Startups also face difficulties including increased funding and maintaining quality of the product while keeping expenses minimal.

Initiatives by the Government:

The government introduced programs in order to support the startup growth including the *Startup India Action Plan*, Fund of Funds for Startups, Credit Guarantee Scheme and Regulatory Changes. These initiatives mainly aim at assisting the startups through finance, simplified regulations and collaborations. The government also introduced tax incentives for startups, including tax holiday, wherein the qualifying startups receive a 100% tax exemption on profits for three straight years.

Some of the other schemes include the *Startup India Hub*, a digital platform for linking startups, investors and mentors and the *Startup India Showcase*, a place to showcase the leading innovative startups. The *National Startup Advisory Council* acting advisory to the government in enhancing the startup environment. The *Startup India Seed Fund Scheme* offers ₹945 crores funding the early-stage Startups for their development. The National Startup Awards is one that honours the influential startups.

The government has also introduced the *States Startup Ranking System* to evaluate states and promote startup policies. The Startup Champions is a television show highlighting thriving startups and the Startup India Innovation Week is an event held around January 16th to encourage entrepreneurship.

Tax Incentives for Startups:

The government's tax initiatives are playing a big role in supporting the growth of startups in India.

1. **Tax Holiday:** The sec. 80- IAC of the Income Tax Act, 1961, provides for the qualifying startups to receive a 100% tax exemption on profits for three straight years within their first ten years of incorporation.
2. **Waiver of Capital Gains Tax:** Startups benefit from not having to pay long-term capital gains tax when they reinvest their gains in funds or use them to buy certain assets. This

helps to encourage investment in startups and generates capital.

3. **Angel Tax:** In 2012, the concept of angel tax was introduced by the Finance Minister to curb the money laundering activities done through undervalued shares from FMV and the shell companies. Section 56(2)(viib) of the Income Tax Act, 1961 provides for the concept that classifies these receipts as "income from sources." Rules 11UA and 11UAA of the Income Tax Rules, 1962 which were introduced in 2012 and improved in 2018 provides for the assessment methods of fair market value, setting the relevant tax rate at 30.9%. Some exemptions were granted³, for investments from venture capital firms, venture capital funds or other categories of investors identified by the Central Government. However companies that did not comply with angel tax regulations or tried to avoid them faced penalties.

Reason for abolishing Angel Tax:

- Uncertainty in valuation standards: There is still no clarity on how to establish the fair market value of shares which leads to ambiguity in implementation.
- Rise in conflicts: The regulation has led to lawsuits especially when assessing officers disagree with the valuation methods used by firms.
- Negative effect on capital accessibility: Taxing share premiums at rates reduces the resources available to companies to conduct their business activities.
- Frequent changes in regulations: Due to opposition the Government has consistently revised the pertinent clauses and guidelines including offering exemptions to DPIIT approved startups and designated entities.

Due to these reasons the angel tax was repealed in the Financial Year 2024 making it ineffective from April 1 2025. While getting rid of the angel tax was a move to promote investment it also introduces possible issues and risks related to money laundering through investments.

MONEY LAUNDERING THROUGH STARTUPS:

Money laundering takes advantage of the rapid growth and high-risk elements over the early-stage startups to conceal the source of illicit funds. These enterprises often have flexible frameworks and minimal supervision making them vulnerable to the infiltration of illegal funds disguised as lawful investments.

³ Gazette Notification no. S.O. 2274(E), issued by CBDT on May 24, 2023.

Process of Money Laundering:

Money laundering is a procedure that generally takes place in three phases:

1. **Placement:** This is the phase where illicitly acquired funds are infused into the official financial system. The primary objective is to transfer the money from its source to prevent it from being noticed. This is often accomplished by placing funds into bank accounts created under identities or via third parties.
2. **Layering:** This entails distinguishing the money from its origin via a sequence of intricate financial operations. This stage conceals the path of the funds. Complicates tracking efforts. Typical techniques involve moving money to accounts employing shell corporations and purchasing expensive assets like diamonds. Methods such as money transfers, borrowing and fake business dealings are also employed.
3. **Integration:** This is the concluding phase during which the legalised money is reintegrated into the economy as earnings. This can be achieved by investing money into companies or assets that produce profits

Common Methods of Exploitation:

- **Misuse of Equity Crowdfunding:** Fraudsters might establish startups or deceitful initiatives, on crowdfunding sites. They subsequently funnel money into these businesses by employing false identities or compromised payment methods. Consequently the returns provided by the platform seem to be investment profits.
- **Layering Via Shell Corporations:** Money launderers frequently create shell companies—entities that have no business activity but are used to hide the source of illicit funds. That is something that does not have business activities to channel funds into startups while pretending to invest. This method adds layers of anonymity greatly complicating the task of identifying the source of the funds.
- **Round Tripping:** This is a technique that involves moving funds to offshore locations, often to tax havens and then reinvesting them into the local economy as Foreign Direct Investment in a new business. This approach generates a facade of international investment operations while successfully cleaning the money.
- **Trade Based Manipulation (Over Invoicing or Under Invoicing):** This is a method where startups can be utilized to carry out transactions that involve intentionally misstated invoice amounts. By exaggerating or minimizing prices criminals can transfer money internationally while creating documents to validate the transactions.

- **Exaggerated Valuations and Counterfeit Costs:** This is a situation where dishonest founders or investors create vendor companies that charge startups inflated fees for services that are never provided. This allows them to redirect invested funds for benefit while posing as valid business expenses.

Recent cases:

1. GoMechanic – ₹1,200 Crore Valuation Based on Fake Garages

GoMechanic is a company that had a valuation of ₹1,200 Crore based on garages. They claimed to have 1,000 plus garages and fake revenues. They created garages, fake service reports and cooked up revenue numbers. The amount raised was around ₹240 crore from investors like Sequoia Capital and Tiger Global. In 2023 the founders admitted the fraud, an audit revealed invoices and ghost garages and the impact was that 70 percent of the staff was laid off and the company was in crisis mode.

2. BharatPe – Founder's Family Involved in ₹81 Crore Misuse

BharatPe is a company where the founder's family was involved in ₹81 Crore misuse. They used company money for gain. They made payments to vendors, inflated invoices and had luxury expenses like chartered flights and personal parties. The amount raised was over ₹1,800 crore and the losses due to misuse were around ₹81 crore under investigation. The impact was that Grover was removed from the board and the company reputation was badly hit.

3. Zilingo – ₹6,000+ Crore Company Collapsed Due to Financial Lies

Zilingo is a fashion tech company that collapsed due to lies led by Ankita Bose, once valued at over ₹6,000 crore. They created revenues, hidden debts and unverified user numbers. The result was that investors suspended the CEO after accounting issues were found and an internal investigation began in 2022. The impact was that Zilingo shut down operations and massive value was wiped out.

4. Trell – ₹480 Crore Raised, But Fake Users and Misuse Alleged

Trell is a lifestyle and video sharing app that showed user engagement but was alleged to have fake users and misuse. They allegedly inflated user numbers using bots to create creator earnings and misuse company money. The amount raised was around ₹480 crore from Sequoia, Samsung Ventures and others. The impact was that the founders were removed and internal audits were under way.

5. Vault – ₹3,000 Crore Crypto Startup Froze Withdrawals

Vault is a crypto startup that froze withdrawals offering 12 percent returns and pausing withdrawals in July 2022. They used customers' money for trades without permission creating a Ponzi like system. The user impact was that over ₹2,000 crore of customer funds were frozen or lost. The impact was that it was under investigation by Singaporean authorities.

6. BluSmart – EV Startup Under Watch for Fund Misuse

BluSmart is an EV startup under watch for fund misuse claiming to be India's eco Uber. What's wrong is that there are allegations that BluSmart, with an amount raised of over ₹550 crore including from BP Ventures and Green Frontier Capital 's under close scrutiny from media and investors.

Checks to prevent money laundering:

Start-ups often depend on funding to facilitate their expansion. Nevertheless, receiving funds from dubious sources can put a business at risk of money laundering. The subsequent measures are vital when safeguarding investment.

1. Investor's Due Diligence:

Startups must be diligent before accepting any investment from the investors by confirming their identity, evaluating the authenticity of sources involved in funding and also examining their business history. It is always critical and crucial to find that particular investment is legal and the investors are trusted partners. Investors should be vigilant about their activities or organizations linked to money laundering. This examination is mandatory while handling investments or funds from limited regulatory supervision.

2. Verifying unverifiable Funding Sources

To avoid problems startups need to steer clear of unverifiable funding sources. Investors who demand to remain anonymous or whose funding sources are not easily identifiable can be a warning sign. These circumstances could suggest efforts to conceal funds. To maintain the investments legit there is a need for holding transparent and accurate documentation of funding sources.

3. Need for Regulatory Compliance:

Anti-Money Laundering (AML) and Know Your Customer (KYC) laws to be complied strictly by both the startup and their investors both domestically and internationally.

Investors must submit the paperwork, including the identification and documentation of their source of funding to enable adequate compliance verification.

4. Note the red warnings:

Startups need to spot warning signs in transactions. Staying alert for trends in funding activities is crucial. Caution indicators could consist of substantial transactions from overseas sources lacking clear reasoning and several minor donations that together create a significant investment or financing that doesn't correspond with the type of work the startup undertakes.

5. Legal and compliance Guidance:

It is essential for startups to pursue compliance advice when assessing investment options. Involving compliance professionals can assist in examining funding contracts confirming the authenticity of investors and ensuring compliance with applicable laws and regulations thus minimizing the likelihood of being implicated in money laundering activities.

Red flags to monitor for Startups:

There are flags for startups to monitor, such as atypical transaction trends.

- ***Unusual Transaction Patterns:*** Startups need to be vigilant about financial activities, like frequent substantial transactions or sudden increases that deviate from typical business practices. This encompasses fund movements, especially those associated with high-risk regions.
- ***Intricate ownership frameworks:*** The use of companies ownership frameworks can hide the identities of the ultimate beneficial owners. This tends to often conceal the sources linked to funding.
- ***Reluctant to provide information:*** Clients or partners showing hesitation or unwillingness to provide documents or business information signifies lack of transparency and engagement in illegal financial practices. Transactions with high-risk jurisdictions can heighten the risk of crime since these locations are frequently exploited to move illegal money.
- ***Inconsistent client profiles:*** This includes inconsistencies between a client's established profile and their financial actions can indicate money laundering risks.

Compliance with Anti- Money Laundering Laws:

In India the anti money laundering laws⁴ and rules provide for compliance with Anti- Money Laundering Laws (AML) and Know Your Customer(KYC). The RBI for banks, NBFC's and payment system operators act as Principal authorities appointed to each sector for supervising the regulatory compliance. The Financial Intelligence Unit in India acts as the authority for obtaining and examining transaction reports whereas the Enforcement Directorate oversees investigation and prosecution under the PMLA. India aligns its AML and KYC framework with the standards established by the Financial Action Task Force (FATF) on a scale.

By 2026 AML and KYC compliance were made mandatory for startups and fintech firms, in India in areas where businesses manage funds, facilitate transactions, provide digital wallets, enable payments, handle investments, issue insurance products or deliver financial and advisory services. According to the PMLA these entities are categorized as "reporting entities". They are required by law to perform customer due diligence, monitor transactions continuously, keep records and report certain activities to regulatory bodies. The Anti Money Laundering laws are not mere procedural, If companies do not follow these laws they can get in trouble like getting fined or investigated. It can also hurt their reputation, so it is very important for companies to follow these laws.

Under the rules startups and fintech companies have to put in place a strong Anti Money Laundering system that is suitable for their operational scale. This means they have to use a risk-based approach. While checking their customers make sure they have written policies in place that have been approved by the board and have systems to monitor transactions. Companies also have to tell the Financial Intelligence Unit about any large transactions in a specific format. They have to keep records of customer information and transactions for at least five years after the business relationship has ended. The people in charge are putting emphasis on training employees and doing regular checks to make sure companies are following the Anti Money Laundering laws. This is not a one-time thing, it is something that companies have to do all the time. Companies also have to give reports to the government like Cash Transaction Reports for cash transactions over ₹10 lakh and Suspicious Transaction Reports if they find any suspicious transactions. If companies do not follow these rules they can get in trouble like getting fined or having to deal with oversight from the government.

⁴ Prevention of Money Laundering Act, 2002 & PMLA (Maintenance of Record) rules, 2005.

SUGGESTION:

1. *Strict Implementation of KYC and AML frameworks:* Startups are required to implement strong Know Your Customer and Anti Money Laundering protocols, to make sure the clients are in follow-up with the rules. This includes checking their identities and partners and keeping an eye on transactions to find if there exists any suspicious activity.
2. *Training of Employees:* Employees of the company should be trained in such a way that they can identify the signs of money laundering in the transactions. Employees must be aware of the laws and be able to identify and report any doubtful activity.
3. *Investment over technological support:* Automated systems to be introduced to check and monitor transactions as it can help identify patterns and potentially illegal activities.
4. *Establishing proper reporting methods:* Startups should also create private ways for employees to report any suspicious behavior without fear of retaliation.
5. *Need for legal and compliance support:* This helps create a culture of compliance and encourages employees to speak up if they see anything. Finally startups should work with compliance experts to stay up to date on the latest rules and regulations and to make sure they are following all the Anti Money Laundering laws.

CONCLUSION:

India is focused on growing its economy. Has created many schemes and plans to help startups. This includes tax incentives and other measures to make it easier for startups to do business. The government has also recently changed the Finance Act to help startups and remove some of the hurdles they face. However one of the problems that still needs to be solved is money laundering. The Anti Money Laundering laws are in place to help prevent this. Startups have to follow these laws. The authorities also have to monitor startups to make sure they are following the rules in order to curb the existing money laundering through startup investments.

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