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LEGAL PERSPECTIVE OF MERGER & ACQUISITIONS FOR INDIAN BANKING INDUSTRY

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ABSTRACT

In this era of globalization, where we are breathing the quintessence of free trade, the contribution of banks as an industry is significant. Indian Market, globally recognized for its rapidly emerging and far reaching technology, is aptly described as the 'home of growth' for its contribution and advancement in diversified field. This project explores those aspects of Merger & Acquisitions law which are related to the consolidation of banking industry, its regulation and its efficient functioning in tertiary sector for the country's development and progress. Mergers & Acquisitions, is one such phenomena wherein the two or more entities come together to combine & share their resources to achieve common objectives. The tremendous rise in the global trade has resulted in demand to facilitate both product and geographic diversification- from assets as well as liabilities side, which as of today the Indian Banks are not able to compete internationally- in terms of funds' mobilisation credit disbursal, investments etc. due to their relatively small size. This project also aims at identifying the challenges posed by the modern practices of industry as compared to the traditional practices and finding out ways and means through the regulated framework of banking industry to address these challenges, and to develop an efficient and consolidated structure. Furthermore, it concentrates on the risk assessment and risk management related to the banks and also analyzes the capacity and implementation challenges in respect of developing countries. This project shall also discuss various national and international instance of banking consolidation. The discussion becomes more important in a framework wherein the Indian banking industry is highly skewed and almost 80 banks have less than 2.0% market share in India and the top five banks which acquire 50% market share in India, are much smaller than the global standards. The project intends to conclude by submitting recommendations and suggestions for efficient and successful consolidation of banking sector in order to compete globally.

Keywords: Mergers and Acquisitions, Indian Banking industry, Consolidation, Competitiveness.

I. INDIAN BANKING & GLOBALIZATION: A PROLOGUE

I returned, and saw under the sun, that the race is not to the swift, nor the battle to the strong, neither yet bread to the wise, nor yet riches to men of understanding, nor yet favor to men of skill; but time and chance happened to them all.

--Ecclesiastes 9: II

A significant feature of banking in developed versus emerging economies, especially in recent years, has been the process of consolidation. The most notable difference between the consolidation process in developed and emerging markets is the overwhelming cross-border nature of mergers and acquisitions in the latter. In particular, cross-border merger activity in continental Europe and also between US and European institutions has been more of an exception rather than the rule. In contrast, there has been a sharp increase in foreign ownership of some emerging market banks due to process of privatisation often associated with crises.

An important difference in this context has been the role played by the authorities in the financial sector consolidation process. In mature markets, consolidation has been seen as a way of eliminating excess capacity and generating cost savings to the institution. In emerging markets, on the other, consolidation has been predominantly a way of resolving problems of financial distress, with the authorities playing a major role in the process.

The last two decades of Indian Banking sector have witnessed a sea change in the nature of services offered by banks which has had a positive impact on the economy as well as the customers. From a public sector dominated scenario, Indian banking has come a long way to the current situation where private sector banks co-exist along with their public sector counterparts who have also adapted themselves well to the changing times. While the Indian banking system has done fairly well in adjusting to new market dynamics, greater challenges lie ahead. These challenges open up a whole new world of opportunities for the Indian banks to explore.

II. RECOMMENDATIONS OF NARASIMHAM COMMITTEE ON BANKING SECTOR REFORMS

- Globally the Banking and financial system have adopted information and communications technology. This phenomenon has largely bypassed the Indian Banking system, and the committee felt that requisite success needs to be achieved in the following areas.
    1. Bank automation
    2. Planning, standardization of electronic payment system
    3. Telecom infrastructure
    4. Data warehousing network
- Mergers between banks and DFIs and NBFCs need to be on synergies and should make a sound commercial sense. Committee also opined that mergers between strong Banks/FIs would make for greater economic and commercial sense and would be a case where the whole is greater than the sum of its parts and have a "force multiplier effect". It also opined that mergers should not be seen as a means for bailing out weak banks.
- A weak bank could be nurtured into healthy units. Mergers could be a solution to a weak bank, but the committee suggested it only after cleaning up their balance sheets. It also stated that if there is no voluntary response to a takeover of such banks, a restructuring commission for such PSBs can consider other options such as restructuring, merger & amalgamation or if not closure.

The committee also opined that while licensing new private sector banks, the initial capital requirements need to be reviewed. It also emphasized on a transparent mechanism for deciding the ability of promoters to professionally manage the banks. The committee also emphasized on the fact that a minimum threshold capital for private banks also deserves attention and mergers could be one of the options available for reaching the required threshold capitals. The committee also opined that promoter group cannot hold more than 40 percent of the equity of a bank.

III. LEGAL & REGULATORY PERSPECTIVES IN INDIAN BANKING CONSOLIDATION

The resultant of Globalization is the rapid and vibrant development of varied areas of an economy; one such area is that of the banking industry which as a result of the change in the macroeconomic environment have amounted to intensified banking competition.

The bitter experiences of the South East Asian crises have taught that without ensuring robustness and operational efficiency, banks in developing countries would not be able to withstand global competition. Thus, the role of legal regulator becomes more vehemently important.

Merger is defined as whenever a greater estate and less one coincide and meet in one and the same person, without any middle estate the less is immediately annihilated or in the law phrase, is said to be merged that is sunk or drowned in the greater.[1]

Amalgamation is not defined under the Act, although it ordinarily means merger but the word has no legal meaning.[2] Though the term 'merger' & 'amalgamation' are often used interchangeably, many analysts are of the opinion that in the case of merger one losses corporate existence and survivor acquires the assets as well as the liabilities of merged company.

Acquisition as defined, "the gaining of possession or control over something, acquisition of target company's assets"[3].

The legal framework governing mergers & acquisitions in banking sector is built upon two main statutes i.e., (a) The Banking Regulation Act, 1949 (b) The Companies Act, 1956.

- **Legal Framework for Private Banks**

The Banking Regulation Act, 1949 (hereinafter referred as BR Act) has enumerated the *procedures and schemes* for amalgamation and reconstruction of banking companies along with the RBI Guidelines for merger/ amalgamation of private sector banks as on May 11 2005.[4] Moreover the banking company has to necessarily comply with all the other requirements as that prescribed under the Company Act, 1956 (hereinafter referred as Co. Act) since they are registered as Companies under the Co. Act.

- According to Section 5 of BR Act:
  1. The provisions of the BR Act will also cover the foreign registered company carrying on banking business in India.[5]

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1. *See*: Stroud's Judicial Dictionary, Vol. III at Pg 1781.

2. *See*: Law Lexicon, P. 224.

3. *See*: Black's Law Dictionary.

4. *Refer:* RBI Notification, *Guidelines for Merger/ Amalgamation of Private Sector Banks*, Ref. DBOD. No. PSBS.BC.89/16.13.100/2004-05, 11th May 2005.

5. *Refer:* Section 5(d) Banking Regulation Act.

2. The provisions of the BR Act shall override the MoA & AoA of Company.[6]
3. A resolution passed by the banking company in general meeting or by it Board or executed any agreement, is inconsistent with the provisions of the BR Act, shall be invalid.

- Section 44 (A) vest discretionary power with the RBI to approve the voluntary amalgamation of two banking.[7]
- A compromise or arrangement sanctioned by a court in respect of the banking company cannot be worked satisfactorily with or without modifications in the opinion of the RBI, the Reserve Bank may propose the winding up of the banking company.[8]

Section 44(A) of the BR Act requires: that a draft proposal for the amalgamation should be prepared which must be individually approved by the Boards of the two companies. The Board needs to give particulars as to following matters[9]:

a) Values of the assets, liabilities & reserves of the amalgamated company are proposed to be incorporated in the books of amalgamating company.
b) Due Diligence report in respect to amalgamated company.
c) Nature of Consideration, amalgamating company shall pay to the shareholders of the amalgamated company.
d) Swap Ratio.
e) Shareholding pattern in the two banking companies, whether holding of shares by any individual, entity or group in the amalgamating company will be volative of RBI guidelines or require any specific approval.
f) Impact of the amalgamation as to profitability & capital adequacy ratio of amalgamating company.
g) Changes proposed which is to be made in Board, whether they are in conformity to the RBI guidelines.

[6]. *Refer:* Section 5(a) Banking Regulation Act.

[7]. *Refer:* Section 44 (A) Banking Regulation Act.

[8]. *Refer:* Section 38(3)(b)(i) Banking Regulation Act.

[9]. *Refer:* Supra fn. 4.

After drafting the amalgamation scheme with the requisite details and thereon by receiving the assent of the Board of both the companies the draft scheme of amalgamation has to be approved by shareholders of each banking company through a resolution with two third majorities present in person or by proxy. Further full details of the meeting called for this purpose should be communicated to all the shareholders and should be published in two newspapers circulated in area where the companies have their registered office. Once the said formalities have been duly complied within the companies the draft scheme of amalgamation is to be submitted to the Reserve Bank which the RBI is expected to consider the proposals on merit[10] leaving question of compliance with relevant statutes with High Court as it is entitled to look into the legal validity as per section 44(B) of the Banking Regulation Act.[11] Such an agreement should be between the banking company, its creditors & its members. The High Court also examines the compliance with the procedures under section 391 to 393 of Companies Act.[12] The High Court can exercise these powers only when the scheme receives the approval from Reserve Bank.

Dissenting Shareholder: The section 44A provides that the draft scheme shall require two third majority approvals of its shareholders to be deemed to be approved. Thus, there might be a situation where the company shall not have the absolute majority in favour of the scheme but necessarily have the requisite majority in favour of the scheme to come into effect, thus the framers have provided the option for this set of dissenting shareholders to:

(a) In event of scheme being sanctioned by Reserve Bank, the dissenting shareholder is entitled to claim from the banking company concerned, in respect to the shares held by him in that company, their value as determined by the Reserve Bank[13] while sanctioning the scheme.

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[10] . *Refer:* Sub- section (4) of Section 44A Banking Regulation Act, *also refer:* ICICI Ltd 2004 (119) Com. Cas. 941.

[11]. *Refer:* Sub- section (1) of Section 44B Banking Regulation Act, *also refer:* Scheme of Amalgamation of Indus Industry Enterprises & Finance Ltd with Indus Ltd. Bank (2003) 4 Mah. L.J. 535.

[12]. *Refer:* Sub- section (2) of Section 44B Banking Regulation Act.

[13]. *See*: In order to determine the Value: Amalgamated Company Should submit the following:

a. Report of Valuation of Shares.

b. Detailed Computation of such valuation.

In, Bank of Madura Shareholders Welfare Association v. The Governor, Reserve Bank of India, the Chennai High Court observed that:

- *The Scheme of amalgamation of two banking companies should contain in complete details regarding the proposed merger of the two companies.*
- *The High Court is not given the power to grant its approval to the scheme of merger of banking companies and the Reserve Bank of India is given such a power.*
- *The Reserve Bank of India is also empowered to determine the market value of shares of the shareholder who has voted against the scheme of amalgamation or who has given such notice against the amalgamation in writing prior to the meeting of the company to the presiding officer concerned.*

Public Interest: The RBI is empowered to apply[14] to Central Government of India for imposing moratorium[15] by taking public interest at large, and in order to prevent a run on the financial vulnerabilities of the said bank. Thus after considering the application under sub- section (1) of section 45 the Central Government may make an order of moratorium for a fixed period of time on such terms and conditions as it thinks fit.[16]

- **Merger of Sick Banks**

During the period of moratorium, If RBI is satisfied that:

a) In the public interest;
b) In the interests if depositors;
c) To secure proper management of banking company;
d) In interest of banking system of country, the Reserve Bank may prepare a scheme-
(i) For reconstruction of banking company, or

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c. Whether the Shares of the amalgamated company are quoted on stock exchange: Details of the monthly high and low of the quotation on the exchange where the shares are most widely traded together with the number of shares traded during six months immediately preceding the date on which the scheme of amalgamation is approved by Boards.

[14]. *Refer:* Sub- Section (1) of Section 45: *Application of Reserve Bank*.

[15]. *See*: "Moratorium" legal parlance refers to delay or temporary pause in an activity or postponement or waiting period- a legally authorized suspension in discharging a legal obligation.

[16]. *Refer:* Sub- Section (2) of Section 45: *Imposition of Moratorium*.

(ii) For amalgamation of the banking company with any other banking institution.[17]

Compensation to Employees: For any institution its employees are its biggest assets and the biggest liability for the acquiring company. Thus, where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of Section 25(F), as if the workman had been retrenched;

Provided nothing of the above said shall apply if;

(a) Such transfer shall not interrupt the service of workman;
(b) The terms & conditions of service applicable previously shall in no way less favorable to the workman; and
(c) New employer is, under the terms of such transfer or otherwise, legally liable to pay to the workman, in event of retrenchment, compensation on the basis that his service has been continuous on the basis that his service has been continuous and has not interrupted by the transfer.

- **Legal Framework for Public Banks**

The public sector banks, namely the State Banks and other nationalized banks and regional rural banks are established by special statutes and the rules, regulations and schemes framed there under. The BR Act is applicable to these banks only in a limited way as:

State Bank and its Subsidiaries

State Bank of India was established under section 3 of the State Bank of India Act, 1955 for taking over the undertaking of the Imperial Bank and to carry on the business of banking and other business in accordance with that Act.

Majority of shares are held by the RBI, although the shares are freely transferable, RBI cannot transfer any amount of shares which would result in its holding below fifty percent of the issued capital. No other shareholder other than RBI unless otherwise provided by Central Government

[17]. *Refer:* Sub- Section (2) of Section 45.

can have voting right above 10%. Thus approval of RBI and Central Government is required in acquisition of business of other banks.[18]

Nationalized Banks

The Banking Companies (Acquisition and Trasnfer of Undertaking) Act, 1970 and Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980, transferred the undertaking of existing private banks to the corresponding new banks established under these Acts. These banks are popularly known as Nationalized Banks.

Originally the entire paid- up capital of the nationalized banks was held by the Central Government, although some of these banks have made public issue of shares. The shares than those of government are freely transferable, however no shareholder other than Central Government can exercise voting rights in excess of 10%.[19]

Unlike the sanction of schemes by the RBI under section 44 (A) of the BR Act, the scheme framed by the Central Government is required under section 9 (6) of Nationalization Act to be placed before both the Houses of Parliament.

In case of nationalized bank in financial distress and having been placed under the order of moratorium, on application made by RBI to Central Government under sub section (2) of section 45, the RBI can frame scheme of amalgamation for transferring the assets and liabilities of distressed bank to a much stronger bank. Such scheme shall be notified under Official Gazette. As in case of amalgamation sanctioned by Central Government under the Nationalization Act and RRBs Act, the notification issued for compulsory amalgamation under section 45 of the BR Act is also required to be placed before the two Houses of the Parliament.

Other Applicable Laws

SEBI: Regulation 2 (ha) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 which is applicable to securities of listed companies shall be applicable.

Competition Laws: One of the Objectives of the Competition Act, 2002 is to prevent practices having adverse effect on competition.[20] As the Act prohibits creation of enterprises through acquisition or other structural combination which may produce anti- competitive effects. But the

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[18] . *See*: M.L. Tannan, Tannan's Banking Law & Practice in India, 21st ed. Pg. Wadhwa Publication House

[19]. *See*: Ibid.

[20]. *Refer:* Section 5 definition of combination includes acquisition merger or amalgamation.

exemptions to any structural creation shall be public financial institutions, foreign institutional investors[21], banks or venture capital funds. However it is necessary to inform within seven days from date of acquisition, with following details:

(i) Details of Control
(ii) Circumstances for exercising such control.
(iii) Consequences of default of investment agreement.

Amalgamation of an Non Banking Financial Company with a banking company[22]

- Where the NBFC is proposed to be amalgamated into a banking company, the banking company should obtain the approval of the Reserve Bank of India after the scheme of amalgamation is approved by its Board but before it is submitted to the High Court for approval.
- When according its approval to the scheme, the Board should give consideration to the matters listed in paragraph above. In addition, it should examine whether:-

(a) The NBFC has violated / is likely to violate any of the RBI/SEBI norms and if so, ensure that these norms are complied with before the scheme of amalgamation is approved.

(b) The NBFC has complied with the 'Know Your Customer' norms for all the accounts, which will become accounts of the banking company after amalgamation.

(c) The NBFC has availed of credit facilities from banks/FIs and if so, whether the loan agreements mandate the NBFC to seek consent of the bank/FI concerned for the proposed merger/amalgamation.

The provisions of above paragraphs above will also apply *mutatis mutandis* in the rare cases where a banking company is amalgamated into an NBFC.

[21]. *See*: FII shall means and include same as defined under section 115(AD) of Income Tax Act.

[22]. *Refer:* RBI Notification, *Guidelines for Merger/ Amalgamation of Private Sector Banks*, Ref. DBOD. No. PSBS.BC.89/16.13.100/2004-05, 11th May 2005

IV. ISSUES & IMPLICATIONS OF BANK CONSOLIDATION IN INDIA: A CASE LAW ANALYSIS

Consolidation may be an efficient way to eliminate the widely documented excess capacity in banking markets. In the presence of excess capacity, some banks are below efficient scale, have an inefficient product mix, or may be inside the efficient frontier. M&A's may help solve these problems more efficiently than outright bankruptcies because they preserve the franchise values of the merging firms. Moreover, there are several reasons to suspect that the efficiency effects of M&A's in the 1990s may differ from those in the 1980s. Gradual deregulation, technological innovations and the associated increase in competition have induced banks to adapt their strategies. The resulting focus on an optimal organizational design and improved efficiency tends to predict more pronounced merger gains in the 1990s. On the other hand, consolidation also leads to increased concentration, which may entail negative consequences for different bank customer segments. Therefore, bank regulators and competition authorities, among others, are interested in gaining a better understanding of the potential consequences of enhanced bank consolidation.[23]

- *State Bank and its Subsidiaries*

Mergers in Public Sector Banks are the debate of the day. The Government of India feels that the mantra for the banking reforms should be "*consolidation, competition & covergance*" which enables the bank to become much stronger, bigger & globally competitive. The most effective way to acquire the market shares at both domestic and international level is through mergers & acquisition. The merger of State Bank of India with its associates is in conformity to the above said principles. As the SBI is the biggest commercial bank in India in terms of its earnings, resources, deposits, wide network and human resources and is known in the global arena for its world class standard procedures.

State Bank of India, on August 27th 2007 said its board has given go ahead to the merger of State Bank of Saurashtra with itself. In a communication to the Bombay Stock Exchange, SBI said its

[23]. *See*: Vander Vennet, R. (1996). The effect of mergers and acquisitions on the efficiency and profitability of EC credit institutions, *Journal of Banking and Finance*, 20(9), November, 1531-1558.

central board on August 25 approved the merger, subject to approval of the government and Reserve Bank in accordance with State Bank of India Act, 1955.

SBI scrip rose 5 per cent at Rs 1,540 in morning trade on the stock exchange. SBS is the smallest of the seven associates and based on the experience we will look at other banks". The other associates are State Bank of Travancore, State Bank of Mysore, State Bank of Bikaner and Jaipur, State Bank of Hyderabad, State Bank of Indore and State Bank of Patiala. Of these, the first three are listed on stock exchanges. SBI's interest in the associate banks ranges from 75-100 per cent. After SBS, SBI is likely to merge the other three unlisted arms and then follow it up with the listed ones. Its net profit rose 45 per cent to Rs 87.4 crore in 2006-07. The bank has paid-up equity capital of Rs 314 crore. The total deposits stood at Rs 15,804 crore while total advances were at Rs 11,081 crore. The merger would help SBI consolidate its position as the country's biggest bank and widen the gap with nearest rival ICICI Bank. With 9,579 branches, SBI has total assets of Rs 5, 66,565 cr. and posted a net profit of Rs 4,541 cr. as on March 31, 2007.[24]

A formal merger need not necessarily strengthen its business prospects but, on the other hand, can pose certain daunting challenges. Specifically, achieving a measure of integration among the employees of the two banks is going to be a thankless task. Smaller banks such as the SBS have their own unique strengths rooted in the region where they operate predominantly. It will be difficult to transfer these to a much larger entity. In addition, the large size of a financial institution is in itself no guarantee of success in a globally competitive environment. Indian policy makers ought not to miss the point that the world's largest banks in the United States have been guilty of regulatory transgressions and have piled up unprecedented losses.[25]

- *Global Trust Bank and Oriental Bank of Commerce: An Example of Private Bank acquisition by Public Sector Bank.*

GTB was on the banks which came into existence after opening up of the market by the RBI for Private Players. The functioning of GTB form the day of its inception when group of individuals rather than any financial institution was awarded with the license to the mode in which it

[24]. *See*: SBI Managing Director T S Bhattarcharya

http://www.expressindia.com/news/fullstory.php?newsid=91422

[25] . *See*: Editorial, Merging public sector banks, The Hindu, Aug. 20 2008.

functioned, always kept the bank in concerned. Eventually, when regulator discovered that bank has accumulated more than Rs. 900 crores non- performing assets, they had no choice rather to suspend the functioning of the bank. It has further become more inevitable to do so, in order to maintain the public confidence in newly upcoming banks in the country.

The Government of India sanctioned a scheme for amalgamation of the two Banks which came in force on August 14, 2004. The scheme was considered in public interest and was initiated with a view to ensure security to the public deposit.

Effects of Merger:

1. All the branches of GTB shall function as branches of Oreintal Bank with effect from date mentioned.
2. The customers including the Depositors of GTB shall be operating their accounts as customers of Oriental Bank.
3. On payment of liability through realization of the assets of the GTB if any surplus is left out then in that case the shareholder shall be entitled for the same on pro- rata payment.

- *ICICI- Saga of Mergers*

<u>Merger of ICICI and SCICI</u>: On April 1, 1996 was the day on which SCICI was merged with ICICI with a swap ratio of 2:5[26], the main reason for the merger was to avoid competition between ICICI and SCICI. As since, from the period of 1992 from when the SCICI turned into diversified financial institution it had a mirror image of ICICI, except for its size. Although from the perspective the merger was not much fruitful since both the institutions were into same job of resource raising and deployment in different companies. Although the critics are of the opinion that, the merger enabled the ICICI to foster its growth in the competitive environment. It helped in establishing high customer service standards. The biggest gain for ICICI from the merger was, Tax benefits, reduction in NPA as a percentage of Total Assets, since the SCICI's expertise in the areas of shipping, aquaculture and port development, which it could harness while entering these industries to augment its portfolio.[27]

- <u>ICICI Ltd and ICICI Bank Merger: A Case of Reverse Merger</u>

[26]. *See*: Swap Ratio of 2:5- 2 Shares of ICICI for every 5 shares of SCICI.

[27]. *See*: Roshini Jayakar, "ICICI+SCICI vs. IDBI+IFCI"? Business Today, Feb 07- 21, 1997.

Taking a reverse merger route, the parent ICICI Ltd. Merged with its erstwhile subsidiary, ICICI Bank. The merger between ICICI Bank and ICICI Ltd thus pioneered the concept of universal banking. It was also supposed to merge its two subsidiaries, namely ICICI Personal Finance Services and ICICI Capital Services Ltd. The swap ratio was decided as 2:1.[28] The ICICI Ltd had 46 % stake in ICICI Bank at the time of merger. Instead of extinguishing the shares, for the purpose of merger, a *Special Purpose Vehicle* (SPV) was created in the form of trust, which was supposed to form more than 16 % of the total capital. This was an intelligent strategy by the Company, as it benefited the Company in varied aspects such as: *a)* it shall not be a prudent step to extinguish the capital in a scenario where the cost of raising capital is itself very high; *b)* Safeguard to capital adequacy ratio; *c)* the plan was to divest the stake to a strategic partner a few year down the line, which would fetch the bank a considerable amount of cash.

V. PROLOGUE

"In financial systems worldwide, today's buzzwords are competition, consolidation and stability". There has been impressive stability and considerable competition in India but the process of consolidation in banking industry has just commenced. The issue of consolidation has been addressed by the Narasimham Committee Report on Banking Sector Reforms (1998) but the issue in regard to policy is yet to be pursued vigorously.[29]

While M & A's have become a global trend, the resurgence in the Indian economy would provide a momentum to such activity in the near future, driven by factors such as boom in the financial markets, rising stock prices, persistently low interest rates, Specifically, sectors such as Banking, Pharma, and Telecom. It is to be noted that the situation facing the Indian banking industry is in contrast to that prevailing more than a decade back wherein the Indian banking sector was a monopoly dominated by the State Bank of India. M & A's in the banking sector were initiated through the recommendations of the Narasimham Committee on banking sector reforms which suggested that 'merger should not be viewed as a means of bailing out weak

[28]. *See*: 1 share of ICICI Bank for every 2 shares held in ICICI Ltd.

[29]. See: Y V Reddy: Towards globalization in the financial sector in India, the Twenty-Fifth Bank Economists' Conference - 2003, Mumbai, 11 December 2003.

banks. They could be a solution to the problem of weak banks but only after cleaning up their balance sheet.'

The Indian banking industry is today witnessing a spate of mergers and acquisitions. This phenomenon is indicative of a global trend wherein banking is witnessing the twin trends of consolidation and convergence. This is driven by the need to acquire strength through bigger size and therefore be able to compete on a global scale in a competitive and deregulated banking environment.

We witnessed two mega mergers in the history of Indian M & A's, one the merger of Bank of Madhura with ICICI Bank, and second that of Global Trust Bank with UTI Bank, (the new bank being called UTI-Global bank).

The future outlook of the Indian banking industry is that a lot of action is set to be seen with respect to M & A's, with consolidation as a key to competitiveness being the driving force. Both the private sector banks and public sector banks in India are seeking to acquire foreign banks. As an example, the State Bank of India, the largest bank of the country has major overseas acquisition plans in its bid to make itself one of the top three banks in Asia by 2008, and among the top 20 globally over next few years.

While there would be many benefits of consolidation like size and thereby economies of scale, greater geographical penetration, enhanced market image and brand name, increased bargaining power, and other synergies; there are also likely to be risks involved in consolidation like problems associated with size, human relations problems, dissimilarity in structure, systems and the procedures of the two organizations, problem of valuation etc which would need to be tackled before such activity can give enhanced value to the industry.

While many reasons have been advanced for the success or failure ranging from financial, organizational, to people related; it remains true that M & A's pose strategic challenges for both academicians and researchers.