

## LAWBY WRITES



**Brave Predictions In The Legal Field for The Next 5 Years**

**From Supplier to Receiver: The Dynamics of Reverse Charge Mechanism in GST**

**Protecting the "Aashiqui"-Delhi High Court**

**Importance of SSNIP test in Competition law**



# EDITORIAL



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## Brave Predictions In The Legal Field for The Next 5 Years

**Change of syllabus and shorter courses for legal professionals approved by BCI will soon become a reality**

The syllabus of law, though well curated by the Bar Council of India, is not effectively producing qualified legal professionals for the judicial system. It suffers from the limitation of “excessive cognitive burden”. There is no field that is beyond the regulation of law, and hence, trying to summarize the volume of legal knowledge and create professionals as generalists has not proved useful. It is certain that Constitutional law and procedural laws must be made mandatory, and court visits and case filing mocks must be made mandatory. It is evident from the fact that many institutions that dole out 6 months of legal courses for various legal specializations have many takers as **law students understand that their learning in law school is insufficient and almost redundant in practice**. I suspect the BCI is already sensing this, and we may be surprised by radical changes to our syllabus and graduation timeline in the coming years.

**Time taken to go as an independent practitioner will reduce to a maximum of 3-5 years**

**Earlier juniors used to work with seniors for almost their entire career or at least north of 10 years. I sense a change is coming, and it is already in motion.** Lawyers with 3-5 years experience under law firms or senior counsels will start having their own firm or independent practice, as lawyers have started to realize that **staying for longer years within a firm is not giving them the best output both in terms of earnings as well as client acquisition**. There is also a mindset shift where the Gurukul kind of teaching is no longer welcome. Juniors seek more liberal offices with no non-sense colleagues. It is also to be noted that young lawyers are shying away from litigation due to its harsh, exhausting, and stressful work culture, which, as such, is giving way to greater demand for litigation lawyers.

**Advertising for Advocates will be permitted by the BCI and Judiciary.**

**With the far-reaching consequences of Artificial Intelligence, the legal field will have to re-invent its working so as to help lawyers and advocates find employment.** With AI helping in the drafting and vetting of documents and legal advisory, many legal jobs will be lost. All those who claim that legal knowledge is specialized and no one can substitute it have not understood how mobiles took over from landlines. **A machine that can learn vetting and drafting patterns and suggest legal outcomes from previous data (similar to what a lawyer does) can replace a lot of lawyers.** Advertising, which is now banned, will be permitted with a legal blessing from BCI and the courts, to help advocates have a chance at a livelihood.

**Collegium system of appointing judges will be replaced with the IJS exam conducted by UPSC**

**The Collegium system has always come under heavy criticism as being biased and lacking transparency.** The Central Government has already proposed to conduct the Indian Judicial Service (IJS) exam similar to IAS and IPS. The Supreme Court of India has however, not permitted any intervention by the Government in its appointment. The question is as to how long can the legal system be immune to the workings of the Parliament through a Constitutional Amendment?

**Would it not be best if every lawyer had a shot at becoming CJI through an open process?**





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# LEGAL CRISPS

## From Supplier to Receiver: The Dynamics of Reverse Charge Mechanism in GST

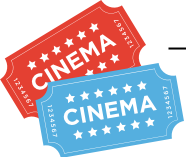
-Nithyaparvathy R G

The Reverse Charge Mechanism(RCM) is the mechanism of paying GST by the buyer/recipient, not the seller. In this case, the recipient/buyer takes the obligation for tax payment rather than the seller. Section 2(98) of the Central Goods and Services Tax Act, 2017 (CGST Act) defines reverse charge as the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017.

Shifting the burden of GST payments to the recipient broadens the scope of taxation on various unorganized industries, excludes specified groups of suppliers, and charges the import of services (since the supply is headquartered outside India). Sections 9(3) of the CGST Act and 5(3) of the IGST Act specify the items or services notified by the government under RCM. Whereas Sections 9(4) of the CGST Act and 5(4) of the IGST Act provide for the supply of goods or services by an unregistered provider to a registered receiver under RCM. Section 24 of the CGST Act of 2017 requires a person entitled to pay GST under the reverse charge mechanism to register for GST.

In the case of ***Pace Setters Business Solutions Pvt. Ltd. V Union Of India (W.P.(C) 7742/2019***), the petitioner disputes a specific government notification on reverse charge provisions for GST on recovery agent services. The petitioner claims these laws are unlawful because they result in the denial of input tax credits, which constitutes double taxation and discrimination. The court ruled that the legal framework allowed for reverse charge mechanisms and that the denial of input tax credit was acceptable, thereby dismissing the petition.





# CASE CHRONICLE

## Protecting the “Aashiqui”- Delhi High Court

-Seethala B

**Case: Vishesh Films Pvt. Ltd. v. Super Cassettes Industries Ltd.**

**Citation: CS(COMM) 68/2024**

The Delhi High Court has issued an interim injunction restraining T-Series from using the titles “Tu Hi Aashiqui,” “Tu Hi Aashiqui Hai”, and “Aashiqui” for an upcoming film. This ruling came in response to the trademark infringement suit filed by Vishesh Films, owned by Mukesh Bhatt, against Super Cassettes Industries Private Limited, which operates as T-Series.

Vishesh Films, which produced the successful films Aashiqui (1990) and Aashiqui 2 (2013) in collaboration with T-Series, claimed trademark rights over the titles “Aashiqui” and “Aashiqui Ke Liye” under the Trade Marks Act, 1999. The court acknowledged that the title “Aashiqui” has become part of a recognised film series and has acquired distinctiveness and goodwill over the years.

The Court stated that **“Aashiqui” is not generic, as it does not describe a general category of goods but rather serves as a distinctive identifier of the Aashiqui Franchise.**” The Court further stated that allowing T-Series to use similar titles could create confusion among audiences, given the overlap in thematic content and the history of association between the two parties. This could dilute the distinctiveness of the “Aashiqui” trademark and harm Vishesh Films’ reputation.

The Court concluded that T-Series’ use of these titles would likely infringe upon Vishesh Films’ trademark rights, causing long-term damage to their intellectual property. As a result, the Court granted an interim injunction in favour of Vishesh Films, protecting their rights over the title “Aashiqui.”





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# BEYOND THE OBVIOUS

## Importance of SSNIP test in Competition law

-Sri Sai Kamalini M S

The small but significant and non-transitory increase in price (SSNIP) test is an essential aspect of competition law. **It determines whether a company has abused its dominant position or if a proposed merger would considerably reduce competition.** This test is used across the globe to determine relevant markets and assess market power.

The smallest group of products is considered while performing the SSNIP test. A hypothetical scenario is considered where a monopolist could profitably impose a 5% price increase for at least one year. It involves asking whether a sufficient number of customers would switch to alternative products in response to such a price increase, making it unprofitable for the monopolist. The process starts with the narrowest possible market and expands by adding the next best substitutes until a hypothetical monopolist can profitably raise prices. This defines the relevant market.

Once the relevant market is defined, the SSNIP test is used to evaluate if a company has significant market power. If a firm can profitably raise prices above the competitive level for a substantial period without facing effective competition, it is considered dominant. High market shares alone do not necessarily indicate dominance. The SSNIP test provides a more rigorous framework to assess the competitive constraints a firm faces, from demand substitutability, supply substitutability and potential competition.

**Applying the SSNIP test in digital markets, where many services are offered for free, poses unique challenges.** Since any price increase from zero is mathematically equal to zero, the test cannot be applied directly.



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# MEET THE TEAM



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