De Jure

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Up Until Now

Rajani Associates
simple solutions

Introduction

Funding. Valuations. Cash burnout. The startup story in India has always been about the number-game – be it building a firm business model or increasing customer footprints by burning out cash.

The years gone-by witnessed a number of startups being born (*and unfortunate few have also closed down their shutters*). Seeking to seize potential opportunity for building a silicon valley in India, the Startup Action Plan was launched in the month of January, 2016, which led to a surge in the activities surrounding the Startup mechanism - both legal and financial. To sum it up[1], following are the SOPs granted specifically to Startups during 2016 till date.[2]

- Relaxed norms of Public Procurement;
- Tax exemption on capital gains if the money is invested in funds provided by the Government;
- Three year tax holiday for Startups that are incorporated between April 1, 2016 and March 31, 2019 is provided;
- Tax exemption on investments above Fair Market Value has been introduced for investments made by any domestic angel investors in Startups;
- Start-up India Intellectual Property Protection ("SIPP") Scheme is brought in place which provides for fast-tracking of patent applications, 80% rebate, reduction in fees, etc.;
- Self-certifying compliances under various labour laws such as Industrial Disputes Act, 1947, Trade Unions Act, 1926, etc.;
- A hub to act as a single point of contact has been created for Startups i.e. www.startupindia.gov.in;
- Start-up mobile application is brought in place for greater convenience of entrepreneurs;
- Faster Exits: In light of the Insolvency and Bankruptcy Code, 2016, the Startups can now be wound up within a period of 90 days from making of an application for winding up on a fast track basis;
- A "fund of funds" of INR 10,000 crores for Startups has been established which is managed by Small Industries Development Bank of India;

1 This list provides a brief overview of the sops granted to Start-ups and is not exhaustive. Kindly refer to the respective circulars issued by the government for details.
2 As on December 26, 2016

- Start-up enterprises are enabled to receive foreign venture capital investment and also explicitly enabled transfer of shares from Foreign Venture Capital Investors to other residents or non-residents;
- Startup, having an overseas subsidiary, have been permitted to open a foreign currency account with a bank outside India for specified purposes;
- Sweat Equity Shares can be issued up to 50% of paid up capital upto 5 years from the date of incorporation/registration;
- ESOP can be issued to the promoters and to directors who, directly or indirectly, holds more than 10% of the outstanding equity shares of the Company;
- Startups are permitted to borrow up to a limit of USD 3 million or equivalent per financial year through External Commercial Borrowing;
- Startups are permitted to receive an amount of INR 25,00,000 or more by way of convertible note (*convertible into equity shares or repayable within a period not exceeding 5 years from date of issue*) in a single tranche, from a person;
- Foreign Venture Capital Funds (FVCF) registered with SEBI are allowed to invest in Indian Startups without RBI approval;
- SEBI has proposed to relax norms pertaining to pricing, disclosures, usage of funds, etc. for Startups willing to get listed on Institutional Trading Platform.

Most of the Startups are bootstrapped and have difficulty in raising funds in their nascent stage for which the Government has endeavoured to make necessary liberations for them under various laws.

Ugly Truth

According to Traxcn, 924 startups have been funded raising overall wealth of $3.89 billion in 2016 alone[3]. The total venture investment in startups in ten years, beginning from 2005, is estimated at Rs.1,11,700 crore[4]. Though capital has been raised, sustaining the market is difficult. A number of The-Next-Big-Thing-kind of startups have closed down their businesses and laid off employees. Startups in Food sector and e-commerce have faced the music of ground

3 https://www.techinasia.com/top-10-funding-deals-india
4 http://www.business-standard.com/article/companies/india-is-a-favoured-hub-for-upcoming-start-ups-116110500764_1.html

reality. Askme (classifieds), PepperTap (grocery), Dazo (food delivery) are the unfortunate few.

High valuations, increasing customer footprints at the cost of burning out cash rather than building a strong business model saw experienced players such as Flipkart and Zomato have their valuations lowered by over 60%.[5] The reason behind the increase in number of startups being incorporated can be attributed to low entry barriers, favourable policy framework and particularly due to easy availability of funds for scaling up. They are eventually tested when the going gets tough due to enhanced competition and market instability.

Bright Side

On the other hand, muscled up by the demonetization, Fintech companies have stayed strong. The night of November 8, 2016 was just the beginning for Fintech companies like Paytm, MobiKwik, Freecharge and Ezetap.

The launch of Digital India has made everyone realize that going digital isn't a choice anymore. With the current economic whirlwind of demonetization, there is an evident onset of India going digital. We have digital wallets, which only sometime back was thought to be filled with scepticism, is now a necessity. Even your local *panipuri-wala* has a digital wallet service. It can be forecasted that technology will be adapted on a full scale. With the change in the Government rules and regulation, there will be a rise in startups that addresses the change and assists the citizen in adapting to a different India.

Although the dark clouds of the Ugly Truth continues to loom over the startup market, Startups, did close the business for the calendar year 2016 on a high note!

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5 http://www.livemint.com/Companies/9qmZCf22xX8zDdhOTf1vaL/When-startup-investors-became-wary.html

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