

Legal Compliance for Incorporating Startup
Prof. Indrajit Dube
Department of Humanities and Social Sciences
Indian Institute of Technology, Kharagpur

Lecture – 05
Other Formalities to Comply

I welcome you in my 5th Lecture on fundamentals regarding Legal Compliance for Incorporating Startup. And I will concentrate my lecture more on Other Formalities to Comply.

(Refer Slide Time: 00:45)



Now I have talked with you in my last lecture relating to the legal compliance of the cost which you might incur relating to formation of the startup or incorporating a startup. And I also drawing your attention that these compliance requirements as well as the cost which will incur that should be one of the criteria, those should be the criteria for your decision making relating to choice of business form.

Now in these lecture I will talk with you that what are the additional regulatory compliance you need to do while you are incorporating a startup. I also mentioned in my last lecture that you need to take permission in addition to incorporating your startup from the local government to operand. So, let me speak little more on this particular issue. See in India it is again governed by the state legislation that if you wanted to incorporate a business into a particular locality you need to take several permission.

Now, it is depending on type of business which you wanted to incorporate or start into that particular local area. First of all you might require taking a license to do a business. And it might be from the municipality, if municipality has been authorized to give you this particular permission or in some cases it is a Nagarnigam, in some cases it is a Zilla parishad, some cases it is the Panchayath who give you these particular permission. Because these local governments are empowered by the parent legislation which are mostly enacted by the state to give you a permission to incorporate your business or to operate your business.

A part from that you need to take a permission from different other regulatory organizations. It might be regarding the environmental issues and if it is an environmental issue and if your business is small, then again this particular permission you might get from the local government. But if your operation is a large then in that case you need to take permission from pollution agencies, like in every state there is a state pollution control board and they have a different office in different part of the state, so you need to take the permission from them.

Again you will find there is a some legislations which empower this particular pollution control board to administrate, like if you are doing something which is relating to the biosafety then again it is a biological diversity board which you need to take the permission. In most of the cases it is this particular authority is given to state pollution control board and they have a biosafety committee. In some of the cases if you are doing relating to the health, then you require to again go back to the local health agencies like many of the time you need to take permission from the ministry of the health of that particular state government. If you wanted to do some kind of experimentation on the animals then again you need to take some permission from the related agencies which are handling relating to the animals and all other thing.

If you are operating near the forest or within the forest or you are planning to do something which is related to the forest again you need to take the permission from the agencies which handle with the forest issues. It might be relating to the mining, if it is it is relating to the mining then in that case you need to go back to the number of agencies relating to the mining of a particular region. It will start from local government to the pollution agency to even different mining regulators. If it is relating to the river and port then you will find there is a several agencies again who are operating relating to

this particular area. So, what I am trying to talking about you know start to doing the business sometimes you need to come under the different regulatory agencies for even operating your business or starting your business.

Now let me draw your attention relating to different tax issues. So, as a startup you possibly need to register yourself with the different tax agencies. Some of them are dealing with the direct access; some of them are dealing with the indirect access. Now when I am talking about the direct access I mean that you need to pay a income tax of the earning which you are making, and when iam talking about the indirect tax I am talking about those taxes which you need to pay during the time of transaction with the product which you are producing.

And you will find there is a different kind of tax structure. Tax structure might be at the time of selling of the product, tax structure might be when you are transporting the product so on so forth. And please remember in many cases you do get us tax rebate or tax holiday or tax concession as a startup. So, you should have a tax management in place. Government give you lot of exemption on the different heat when your initialties of your business.

So, you should consult properly to those people who are the professional in this particular area, who can really help you to manage these affairs and to put it in straight forward manner. Now you will find that the government has also provided the tax filing through the online. If you get yourself trend then you can manage your own and you can do it by online, but I will advice to you for initial time you should take a help of a professional relating to management of the tax. And you know tax planning is one of the very important things in the business.

So, when you are going to skillet of your business your tax planning should be another important planning in the scaling up of the business. As I told you that when you are choosing a particular form of organization for your startup you should also choose that particular organization based on type of tax which you require to pay, if you choose that particular business form. Like let me explain to you, if you choose to incorporate your business to proprietorship you might require to give a particular type of taxes. But if you choose to incorporate your business by limited liability partnership you need to pay possibly other type of taxes or may be little higher taxes.

If you choose again the company you might require to pay more taxes, but whereas if you choose for cooperatives or the society then you might require to pay less taxes. And you know sometimes the government encourages to choose a particular form of business and to do that they give a kind of a taxes exemption which is attached with that particular form of business. So, you should have a proper strategy for your tax planning and the management of the tax. Because, if you look for efficient return tomorrow from your business operation or from your startup, then you should have a tax planning as seriously as your business planning is.

Now let me take you through the last point of mine that is Registration with Sectoral Regulator. Now in generally you would not find that startups are required to register with the sectoral regulator, but you might need to do that once you grow an increase in your skill of operation. Let me give you some example. Now you thought it well India's telephone density is very high, until now India is majorly depending on importing the handset from some other country. Why not to manufacture the mobile handset in our country and you have somewhere you knowable to design a product indigenously which are cost intensive, durable and quite suitable to the use of the local people and the prevailing environment. And you decided to manufacture that particular mobile handset.

Please remember you might require to go back to the certifying agency which will allow you to manufacture that kind of a mobile because there is a lot of issues involved relating to the radiation to health which you need to comply according to regulatory norm. Similarly, if you are doing something in the health sector you need to go back to the health regulatory. If you are manufacturing something in medicines or pharmaceutical you might require some kind of regulatory permission to bring your product to the market.

So, what I am drawing your attention is that most of the time you might not require to have a sectoral regulatory permission to start your business, but in some circumstances you do need a permission from the sectoral regulator or a particular regulator in that market. Now please do remember my lecture when I was talking with you that if you want to enter in market there might be some sector regulators which prescribe governing norms for the player in the market. And these are in addition to your incorporation requirement, operation requirement, tax requirement, and the financial requirement.

So, what I will suggest you should carefully plan the sectoral regulator law or regulation while you are strategizing your business and this is more important when you want to address the growth of your startup, because if your startup is really doing well you will have a very less time to address these particular issues when you are in a strong growth curve. And if you are not addressing this particular issue sometimes it might adversely affect your growth in the startup.

So, in the fundamentals I have basically take you through the initial understanding which you should have relating to choice of business form or business organization for your startup, what should be the criteria for your decision making regarding the choice of the business form or the organizational form. And ultimately I draw your attention that what are the issues you should keep in mind while you are framing the strategy for your future development or future growth.

Thank you.