

Information Technology Act- An Overview

Information Technology Act, 2000 is principally based on the UNCITRAL Model Law. Its object is to give effect to the resolution of the United Nations which recommended giving favourable consideration by the States to the said Model Law while enacting or revising their laws so that uniformity of law applicable to the alternatives to the paper based methods of communication and storage of information is achieved. Its other object is to promote efficient delivery of Government services by means of reliable electronic records. It, therefore, provides for:

- Legal recognition for transactions carried out by means electronic data interchange and other means for electronic communication commonly referred to as “electronic commerce”, which involve the use of alternatives to paper based methods of communication and storage of information ;
- Facilitating electronic filing of documents with the Government agencies and for matters connected therewith or incidental thereto.

Electronic Commerce - Better way of doing business

The use of modern means of communication such as electronic mail and electronic data interchange (EDI) for the conduct of international I trade has been increasing rapidly. Electronic commerce offers significant advantage over the traditional methods of doing business. It requires new skills, strategies and technologies. However, the communication of legally significant information in the form of paperless messages may be hindered by legal obstacles to the use of such messages, or by uncertainty to their legal effect and validity. The purpose of the Information Technology Act is to remove such obstacles and to create a more secure legal environment for what has now become known as “electronic commerce”.

For doing business, we require a buyer and a seller. We also require some agency to bring them together and transact business. In the case of E-commerce, it is Internet Service Provider (ISP). We also require a legal system to enable contractual relationship enforceable. Buyers and sellers are mainly concerned with enforceability of the contract, security and confidentiality of message and transactions. ISP is concerned with its liabilities and obligations. The modern

means of communication electronic mail and electronic data interchange for the conduct of international trade transactions are different from the traditional means. Computer-based information and paper-based documentation make the difference. The traditional means depend upon 'written', "signed" or "original" documents. The modern means is a paperless regime. Steeped as we are in the traditional way of doing business that ragged assurance about the confidentiality, authenticity and integrity our communication which paper-based documentation assures. A legal System is, therefore, needed to deal with such concerns. There was, therefore a need for Information Technology Act. The existing legislation implicitly imposes or implies restrictions on the use of modern means communication, by prescribing the use of "written", "signed", or original" documents. Though certain aspects of electronic commerce are permitted, there was no legislation dealing with electronic commerce as a whole. In its absence, uncertainty existed as to the legal nature and the validity of information presented in the form other than traditional paper document. The approach of the said Act is, therefore functional equivalent and is based on an analysis of the purposes and functions of the traditional paper-based requirement. It ensures such purposes and. functions by extending the meaning of such expressions as "signed" "written", "documents", "evidence", etc. as common to the law based on paper-based communication to paperless transactions and communication. The functions served by a paper document are to:

- Provide that a document is legible by all;
- Provide that document remains unaltered overtime;
- Allow for reproduction of a document so that each party holds a copy of the same data;
- Allow for authentication of data by means of signature;
- Provide that a document is in a form which is acceptable to public authorities and courts.

The Information Technology Act ensures the above-mentioned functions of the paper. Electronic records provide the same level of security and in some case, a higher degree of reliability and speed, especially with regard to identification of the

source and content of the data. The Act gives legal recognition to electronic records and digital signature.

The Information technology Act, 2000, allows enactment of cyber laws to regulate electronic communications, trade and commerce and prevent computer crimes. Based on the Model Law on Electronic Commerce adopted by the UN in January, 1997, the Act has three key elements: replacement of those geriatric legislations that continue, by default, to govern the IT sector; to enable e-commerce to commence in India; and, to control fast-expanding cyber crimes. It envisages legalising electronic signatures on the Net, sanctify credit card transactions and boost e-commerce. It will also amend the Banking Regulation Act, the Indian Evidence Act and the Indian Penal Code to bring in line with the new law and recognise the existence of e-commerce. Such a change is necessary so that contracts can be enforced. With the companies increasingly using internet to link with their vendors and with other businesses, a proper legal framework is essential.

Information Technology Act - Certification and monitoring

For the purpose of overseeing the implementation of its various provisions, the Act sets up an elaborate machinery. Various certification authorities have been set up in order to oversee licensing, certification and monitoring, for licensing, monitoring. A regulator has been appointed to oversee these certification authorities. The authorities monitor and oversee issues like jurisdiction, origin, authentication, privacy protection and intellectual property, computer crimes via information highway. A controller has been appointed to enable the Government to monitor and regulate activities like creating web pages, advertisements, bulletin board and most importantly, e-commerce originating from the country. A Cyber Appellate Tribunal has also been set up which hears appeals from the decisions of the Controller and the adjudicating officers on alleged crimes.

Information Technology Act - Filing of documents with Government agencies

The IT Act enables Government departments and ministries to accept, filing, creating and retention of documents in the form of electronic record. The Government departments are free to specify the format under which these documents have to be stored.

Information Technology Act - Prevention of Crimes

The Act provides for liability to pay compensation for unauthorized access to computer, its network and database. It seeks to punish a person who makes misrepresentation or suppresses any material fact to the Controller, of the IT activities or indulges in hacking. The It Act facilitates simple things like filing FIR with the police through e-mail and several such simple but different transactions.