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Consumer Rights in the LPG Era: The Indian FDI Context

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Abstract: *The decisions of the Indian government to provide for higher foreign direct investment (FDI) in consumer products areas and also in the saving and insurance sector and the large scale opposition to the drive it has generated on a national scale invites deeper reflection where the economists, political leadership, nationalist corporate houses, social activists and agricultural and health NGOs need to contribute their considered opinions so that the anti-consumer aggression by multinationals in the globalisation era could be appropriately checked.*

Keywords: *Foreign Direct Investment (FDI), Consumer Rights, Liberalisation, Privatisation and Globalisation (LPG) era, Global Melt Down and Multinationals*

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I. INTRODUCTION

India made its decisive and remarkable stride into the Liberalisation, Privatisation and Globalisation (LPG) era in the last decade of the 20^{th} Century. The promise shown then has variously been satisfactorily attested as much as controversies around the government claims on achievements on the score of globalisation drive on a moderate to faster pace have been pitched. The 'global melt down' and its impact on the continued devaluation of the Indian rupee has left the average consumer in India with less and less bargaining power and thus the Foreign Direct Investment (FDI) and Walmartproposals have come to be widely resisted so that the consumer rights could be duly protected while giving the Indian countrywide retail shopkeepers and average and small farmers and farm product growers level playing ground. The logic today therefore as pursued in the course of this paper is to question globalisation to a degree where it would be possible to reshape it to rise up to the demand of the Indian national economy on the one hand and to the needs of the agricultural and industrial producers and consumers in India on the other.

This paper has sought to engage with the following questions and to emerge with answers that do not mindlessly go to resist and dismiss globalisation at one stroke, but that do not also blindly make India follow the kind of globalisation drive that is dictated by the West to developing countries like India. These questions are: Is globalisation as an encouragement to the market economy without borders a real help to the agricultural and industrial producers, retailers and above all the consumers in their variously defined disadvantaged locations? Where do globalisation's arrangement and prescriptions bite the Indian consumers the most? Why does in the present/ proposed form FDI in India require adequate exercise at re-casting certain provisions to satisfy consumerinterests in India? Where do Consumer Protection Act (CPA) and Liberalisation, Privatisation and Globalisation (LPG) and Foreign Direct Investment (FDI) in retail sector need to enter into conciliation to serve the consumers in India better?

The objectives of the Consumer Protection Act (CPA) of 1986 was enacted by India are as follows:

1 to safeguard the interests of the Consumers, and
2 to establish Consumer Councils and other authorities for the settlement of consumer disputes.

This is indeed a very unique and highly progressive piece of Social Welfare Legislation. This Act tries to provide effective and efficient safeguards to the consumers against various types of exploitations and unfair dealings. The provisions of the CPA are neither punitive nor preventive in nature, rather these are compensatory. As a statute this act is geared to provide more effective protection to the consumers in India thanany corresponding legislation in force in more advanced and industralised countries. CPA has been in operation for above two decades. The act has undergone amendments thrice to deal with deficiencies and shortcomings found out in the implementation phase.Stillthere is great scope for further improvements. Despite limitations, CPA is a handy weapon for consumers to ensure accountability of producers of goods and providers of services. In the International Conference on Consumer Protection held in Malaysia in 1997, the Indian Consumer Protection Act was described as one "which has set in motion a revolution in the field of consumer rights, the parallel of which has not been seen anywhereelse in the world". (Singh, Chadah: accessed dated 28-03-2014)

CONSUMER RIGHTS UNDER THE ACT (CPA):

The Act (CPA) enshrines the following rights of the consumers in India:

1 The right to be protected against the marketing of goods which are hazardous to life and property;
2 The right to be informed about the quality, quantity, potency, purity, standard and price of goods so as to protect the consumer against unfair trade practices;
3 The right to be assured, wherever possible, for access to variety of goods at competitive prices;
4 The right to be heard;
5 The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumer; and
6 The right to consumer education.

Consumer rights as the prized individual rights among the long charter of human rights have provided for active state initiative and interference when the ultimate legitimate human dignity is under visible threat of being variously transgressed due to nefarious designs of the invisible nexus that strongly operate to maximize profit at the point of both production and sale of commodities which under different so-called reputed international brands are publicised on international media and through other technological means that govern the decision making of individuals as consumers in their different geo-spatial locations. The 1948 Universal Declaration of Human Rights (UDHR) are at the very background to inspire and provide for these specialized set of rights meant to safeguard the basic human dignity even as individuals as citizens of various states in the era of globalization have the opportunities as well as the challenges of being able to satisfy their consumption needs. Having to choose from among a host of competing products available in the markets of our days with price tags that seem to be quite justified for the brand names they proudly represent with equal adumbrated guarantee to please and ensure the customer needs and allied effective provisioning of the comforts, the consumers in India are expected to find themselves in a comfortable place. However, neo-liberal economy in India asking the state to embrace globalization has made the consumer a helpless choice-maker when the brands with name stay with a definite sale and the local products traditionally catering to the consumer satisfaction of needs get gradually disappearing from the market when they fail to face stiff competition on grounds of quality in the international quality control regime. The global spread enjoyed in course of time by branded products thus manages to triumph to dictate terms to the consumers. The logic of wide range of choices for the consumers due to the facilitating role played by the globalization gets dubiously defeated when from a supposed competitive era the markets get squeezed into an era of aggressive monopolization.

THE ERA OF GLOBALISATION IN INDIA:

India with her long prevailing mixed economy has only in the last decade of the 20th Century decided to go aggressively global. The large consumerbase offered by the Indian market very soon, therefore, has succeeded in India's becoming the hub for international products. The political leadership in charge of managing the national economy has subsequently allowed the multinational giants to have higher percentages of investment in various sectors of production of goods and commodities to serve the needs of the rising Indian middle class consumers. Borrowings in the form of credit cards becoming the increasing fashion of the recent years, the Indian middle class consumers find them in a tight- spot where the promise of free choices and free buying spree for them virtually narrows down to near zero levels. The banking industry in response to the needs of the seller's market makes Indian consumers borrowers to an extent where they find themselves to have compromised their future earnings projected on an incremental basis from the point of time of entering into the ever widening and tightening debt trap due growing credit card use while making purchases . What therefore happens when continued devaluation of the Indian rupee takes place is quite easy to understand. Less and less purchasing power with largely constrained earnings and savings therefore makes the miserable condition of the Indian consumers more and more pitiable. The international pressures of business cooperation in the GATT regime makes the Indian state increasingly compelled to systematically go on lifting subsidies on a range of consumer items thereby leaving the average Indian middle class consumerswith no distinct capability to choose between products for purchase with an assertive bargaining power. The competing and established brands selling without any bargaining rates thus further complicate the matter and ultimately the consumers on a nationwide basis in India have to complain about the adverse and impoverishing tendency of globalization. This makes rethinking globalization in the context of Indian market from a considered view of consumer rights inevitable and urgent.

India as a signatory to World Trade Organisation's General Agreement on Tradein Services, which include wholesale and retailing services, has been in a way bound to open up the retailtrade sector to foreign investment. Initially there were apprehensions likeopening upof retail sector may lead to job losses, and loss of entrepreneurial opportunities. However, the government in aseries of moves has opened up the retail sector slowly to Foreign Direct Investment(FDI), a form of cross border investment, where foreign assets are invested into the organizations of the domestic market excluding the investment in stock. FDI brings private funds from overseas into products or services. The domestic company in which foreign currency is invested is usually controlled by the investing foreign company. Thus the control of the government of India in many matters practically comes to be nil.

FDI POLICY IN INDIA:

FDI as defined in Dictionary of Economics (Graham Bannock et.al: 2003) is investment in aforeign country through the acquisition of a local company or the establishment thereof an operation on a new (Greenfield) site. FDI meanscapital inflows from abroad to enhance the production capacityof the economy (HemantBatra :2010). Foreign Investment in India is guided by both the FDI policy announced by theGovernment of India and the Foreign Exchange Management Act (FEMA) 1999. The Reserve Bank of India (RBI) in this regard had issued anotification, which contains the ForeignExchange Management (Transfer or issueof security by a person resident outside India) Regulations, 2000. This notificationhas been amended from time to time. The Ministry of Commerce and Industry, Government of India, is the nodal agency for monitoring and reviewing the FDI policyon continued basis and changes in sectoral policy/ sectoral equity cap.

FDI POLICY WITH REGARD TO RETAILING IN INDIA:

It is necessary to make out Press Note 4 of 2006 issued by DIPP and FDI Policy issued in October 2010forconducting trading activities:

a) FDI up to 100% for cash and carry wholesale trading and export tradingallowed under theautomatic route;
b) FDI up to 51 % with prior Government approval (i.e. FIPB) for retail trade ofSingle Brand products, subject to Press Note 3 (2006 Series); and
c) FDI is not permitted in Multi Brand Retailing in India.

FDI POLICY FOR RETAIL SECTOR IN INDIA:

The UPA government under Dr.ManmohanSingh, announced following prospectivereforms in Indian Retail Sector:

1. India will allow FDI of up to 51% in-multi-brand sector;
2. Single brand retailers such as Apple and Ikea, can own 100% of their Indianstores, up from previous cap of 51%;
3. The retailers (both single and multi-brand) will have to source at least 30% oftheir goods from small and medium sized Indian suppliers;
4. All retail stores can open up their operations in population having over1million;
5. Multi-brand retailers must bring minimum investment of US$ 100 million.
6. The opening of retail competition (policy) will be within parameters of statelaws and regulations.

ARGUMENTS AGAINST FDI

Many trading associations, political parties and industrial associations have argued against FDI in retailing due to various reasons. It is generally argued that the Indian retailers have yet to consolidate their position. The existing retailing scenario is characterized by the presence of a large number of fragmented family owned businesses, who would not be able to survive the competition against global players. Considering higher lending rates in India, Indian retailers, especially small retailers, are to be at a disadvantageous position compared to foreign retailers who enjoy International funds borrowed at lower interest rates. High cost of borrowing forces the domestic players to charge higher prices for the products. This is a cause of worry for Indian investors who in India fear to be pushed out of the market with the entry of more powerful foreign players.

Further, FDI in retail trade would not attract large inflows of foreign investment since investment is not a big botheration to conduct retail business as far as the Indian retailers are concerned. They buy goods on credit and make sales on cash basis. Hence, for them the working capital requirement is not very significant. A further cause of worry is that after making initial investment on basic infrastructure, the multinational retailers could find it necessary and profitable to remit greater part of profits earned in India to their own countries. Thus, India has very little to expect by way of boosting its economy with foreign retail players.

FDI in retail sector would exploit Indians in many complex ways. It is feared that Walmart etc. would enter India in the form of traders, but ultimately fiddle with the economy of the country in a way that the citizens of the country would be disenchantedwith the Union Government of India.

ARGUMENTS IN FAVOUR OF FDI IN RETAIL SECTOR IN INDIA:

The study undertaken by Indian Council of Research in International Economic Relations (ICRIER) observedthat large investment in terms of money in the retail sector would in the long run not harminterests of small and traditional retailers. In fact there are large number of global retail giants who are already prepared to exploit the huge potential offered by the expanding retail sector in India.

THE ARGUMENTS AGAINST RETAIL SECTOR FDI:

95% of the market is made up ofsmall, uncomputerisedfamily run stores. The Indiangovernment has reportedly gone out to drop its traditional protectionist stance and open up itsretailmarket to greater overseas investment. India has already allowed 51%ownership in single-brand goods and thus entry of McDonalds, Marks &Spencer, Body Shop and Ikea has already been possible. The proposal of raising the ownership to100% will attract more foreign retailersin multi-brand retailing.Thus the threat fromnew entrants in retail industry for domestic retail sector is quite high**.**

The Indian economist JayatiGhosh has estimated that one WalMart store would replace 1,400 small retailers at the cost of 5,000 jobs.The impact of FDI in retail in Thailand has led to closing down where 67 per cent of the kirana shops. Dr.Manmohan Singh (Former Prime Minister) had strongly opposed the FDI proposal of the NDA government when he was the Leader of the Opposition in Rajya Sabha in 2002. It is apprehended that Independent stores will close, leading to massive job losses. Walmart employs very few people in the United States and its expansion in India to the extentWalmart has expanded in the United States would account for loss of millions of jobs while leaving scope for creation of only a few thousand jobs.

Traditional retailing has been established in India for many centuries. Its hall mark is its management being done through small, family-owned operations. Thus such businesses are run usually on very low-margin; they are owner-operated; and they run hardly with any significant real estate and labour costs. They also go with marginal tax burden. Consumer familiarity is the basis as a big advantage for the traditional retailing sector. Such small business houses develop strong networks and mostly centrearound local neighbourhoods. With a strongly informal system of credit such business is attractive and many houses as kiranastores have fortnightly or monthly payment systems.Sometimes consumers get their grocery lists delivered at home directly by retail shopkeepers which are seen as an advantage to the consumers.

The small retailer and the middle man present in the retail industry play a large part in supporting the local economy. This traditionally used to increase economic activity, and wealth redistribution. Local entrepreneurship used to grow bringing adequate visible scope for employment generation for the local populations in different parts of the country. However, with large, efficient retailers, the corporate profits are not most likely to be spent in the areas where they are generated. Hence, there is a direct threat for thelocal economy in the wake of FDI in retail sector.

The decisions of the Indian government (2013) to provide for higher foreign direct investment (FDI) in consumer products areas and also in the saving and insurance sector and the large scale opposition to the drive it has generated on a national scale invites deeper reflection where the economists, political leadership, nationalist corporate houses, social activists and agricultural and health NGOs need to contribute their considered opinions so that the anti-consumer aggression by multinationals in the globalisation era could be appropriately checked.

II. CONCLUSION

The post Dunkel situation in the context of India has come to see the gradual and persistent weakening of the Indian farmers and producers of the various edible agricultural products. The hijacking of the choice of the farmers to produce their crops of interest has been outrageously constrained with the growing practice under multinational and Indian corporate giants as they preempt such choice by the farmers by predetermining the sale prices of the products much before the season of production starts.

Consumer is the focal point of any business. Consumers’ satisfaction is set to benefit not only business but government and society as well. Consumerism has to be considered not as consumers’ war against business, but as a collective conscious effort on the part of consumers,business, government and civil society to enhance consumers’satisfaction and social welfare which would finally make the society a better place to live in.There are various components of consumerism. First and foremost is self-protection by consumers. Consumer must be awareof his rights, raise voice against exploitation and seek redressal of hisgrievances. Consumerism or consumer movement over thetime has become a sound force working consciously to aid and protect the consumer by exerting, legal, moral and economic pressure onproducers and providers in some of the developed countries.The consumers in India need to be made adequately and effectively aware of the difficulties that they have to face in the event higher FDI in retail sector in India is allowed. Globalisation needs to be accordingly given adequate and effective second thought especially in its aggressive demand for opening up multi-brand retail sector in India to higher FDI.

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