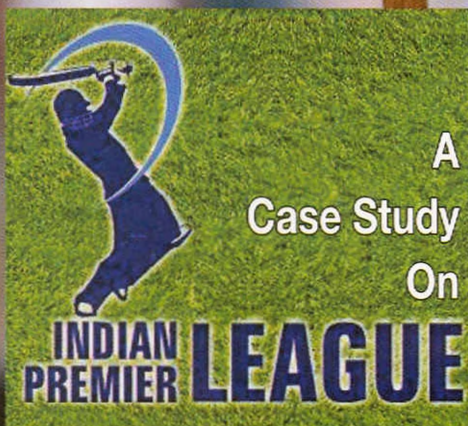


Run out on Business Ethics

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“Cricketology”, “Cricketism”, “Cricketainment” are the few words which can well describe the craze of Indians for the game called cricket. India has witnessed more empty roads on a day of final of cricket match than a day of curfew. It has infused so deeply in Indians that even the reflex of a growing child has changed from 'kicking the ball' to 'bowling the cricket ball'. **“Cricket is religion, Sachin is god”** has been the most common poster that is held in the stands for years now. The transition of game from test cricket to one day and nowadays twenty20 has made it an obsession much bigger than ever. The synonym of Twenty20 in India is Indian Premier League popularly known as IPL. The IPL fever is in its full intensity in India these days. Many people are of the view that it is one of the best things that ever happens to the game of cricket. In fact IPL has become so popular worldwide that Australian Captain Ricky Ponting had to issue an appeal to his countrymen to focus more on their national team's recent series with West Indies than to watch their retired cricketers perform in IPL. In the last three years, the IPL has transformed cricket in India from a gentlemanly sport of tea breaks and daylong matches into a fast-paced, \$4 billion-a-year industry hailed as a fitting symbol of India's rise as an economic power.* Like its obsession over the years, the game has also attracted many controversies and illegal practices like match fixing, betting etc and it has grown with the game. The controversies surrounding IPL have gone beyond the normal dispute and raised several legal issues including match fixing and betting. A raging scandal, which has exposed a web entangling sports, politics and business in this country, threatens to end Mr. Modi's winning streak. What started as a public spat between Mr. Modi and a senior lawmaker has quickly evolved into an investigation by India's tax authorities into the league's financial affairs. The revelations so far suggest that cricket has succumbed to the same kinds of cronyism and corruption that affect many other parts of Indian economics and politics.* *This game of big bucks is a run out on business ethics.*



ORIGIN OF THE GAME

Cricket, often referred to as the 'Gentleman's Game', has its origins in the 16th century, although the international matches were played only after the 1800s. The origin of the game Cricket was gradual. It evolved from various sources like a Scottish sport known as 'cat-and-dog' and a thirteenth century pass-time called 'hand in and hand out'. The game which is played today has its origin in the south eastern part of England. Cricket became a widely adopted sport in the second half of the seventeenth century. The Hambledon club which is founded in about 1750 had significantly contributed in the evolution of the game Cricket. It was superseded by the Marylebone Cricket Club (M.C.C) with its headquarters at Lords, London, which became the world authority of the sport and its sanctuary. An official country championship began in England in 1873 and it became an International game with the formation of the Imperial Cricket Conference (I.C.C) in 1909. The I.C.C membership was confined only to the British Commonwealth countries. In 1956, the name of Imperial Cricket Conference was changed to International Cricket Conference to enable countries to become its members across the globe.



ORIGIN OF INDIAN PREMIER LEAGUE (IPL)

Cricket emerges with the evolution of Test Cricket. It is the highest standard of first-class cricket. A Test match is an international fixture

between teams representing those countries that are Full Members of the ICC. A form of cricket that is completed in a single day, one day cricket, unlike test cricket, always ends with a result in a single days play. After going through lots of phases and changes today cricket has reached another platform which is creating a lot of vogue among cricket lovers. Twenty/20 trend in Cricket changed the game forever and people now like this short period of game. There are various reasons for which the twenty20 cricket trend is popular among people. The game unlike One Day International doesn't take whole day of yours to enjoy it. A match between two teams just hardly takes three hours to finish. It is more exciting and enthralling. There is less strategy and less thinking, only power play and quick decisions. The popularity of the game shot in very short periods that ICC organized Twenty20 World Cup Cricket Championships. The Twenty20 format of cricket created history. After the Twenty20 format of cricket was introduced to the world, cricket has just been overflowing out of everyone's ears, its all about cricket.

The DLF Indian Premier League is an amazing occurrence in whole of cricket history. It has grown into a "commercial phenomenon", generating over US\$4 billion in income. It is seen as a very good opportunity as far as the entertainment industry is concerned. The format of Twenty20 cricket has emerged as a phenomenon after the Twenty20 World Cup was won by India and since then people have been totally immersed into it. There is no doubt where the Indian Premier League is headed, as far as viewer ship and profits for everyone associated with it is concerned. The IPL season usually runs for 44 days and franchisee teams play each other on a home and away basis with at least seven guaranteed home matches and a total of 59 games. The top four teams contests the semi-finals and then grand final takes place. In keeping with the tradition of the Twenty 20, all of the IPL matches are been played under lights at BCCI designated stadiums across the country between 7pm to 10pm IST.

IPL has built, quite rapidly, the citizen's loyalty to his local team. It made the local team lucrative and appealing. The Delhiwallah wants to be a Daredevils supporter, and the

Till now three IPL sessions IPL-1, IPL-2 and IPL-3 have been executed successfully in India and South Africa. The winners in each of the respective sessions were as follows:

Winners

SEASON	LOCATION	WINNERS	RUNEER-UP	TEAMS
2008	India	Rajasthan Royals	Chennai Super Kings	8
2009	South Africa	Deccan Chargers	Bangalore Royal Challengers	8
2010	India	Chennai Super Kings	Mumbai Indians	8

Mumbaikar sees himself as an Indians fan. Both will pay money for the association. IPL has disempowered state selectors, and made it possible for young cricketers to shine, and rise on merit. Before IPL everybody came to know about cricketers, when they were picked to play for India, but now, talented young men have 10 teams to showcase their caliber. To convert this dream of Indian players into reality.

Indian Premier League (IPL) – Teams

Franchise	Owner(s)	Price (USD)
Mumbai Indians	Mukesh Ambani and Reliance Industries Limited	\$111.9 million
Royal Challengers Bangalore	Vijay Mallya and UB group	\$111.6 million
Hyderabad Deccan Chargers	Deccan Chronicle	\$107 million
Chennai Super Kings	India Cements and N Srinivasan	\$91 million
Delhi Daredevils	GMR Holdings	\$84 million
Kings XI Punjab	Preity Zinta, Ness Wadia, Karan Paul (Apeejay Surendera Group) and Mohit Burman (Dabur)	\$76 million
Kolkata Knight Riders	Shahrukh Khan, Juhi Chawla Mehta and Jai Mehta (Red Chillies Entertainment)	\$75.09 million
Rajasthan Royals	Emerging Media: (Manoj Badale, Lachlan Murdoch, Suresh Chellaram)	\$67 million

Because of the adding popularity of IPL, On 21 March 2010, it was announced that two new teams from Pune and Kochi will be added to the IPL 2011 for next season. The owners for these teams are Sahara Group and Rendezvous Sports World Limited. Cities in the list were Pune, Ahmedabad, Nagpur, Kanpur, Dharamsala, Vizag, Rajkot, Cuttack, Baroda, Kochi, Indore and Gwalior. Ultimately, Pune and Kochi were the best choice among bidders. There were total 5 eligible bidders and their bids were as below:

Bidder	Amount
Sahara Adventure Sports	\$370
Rendezvous World Sport	\$333
Adani Group	\$315
VC Digital Solution (Videocon)	\$300
Pune Consortium	\$261

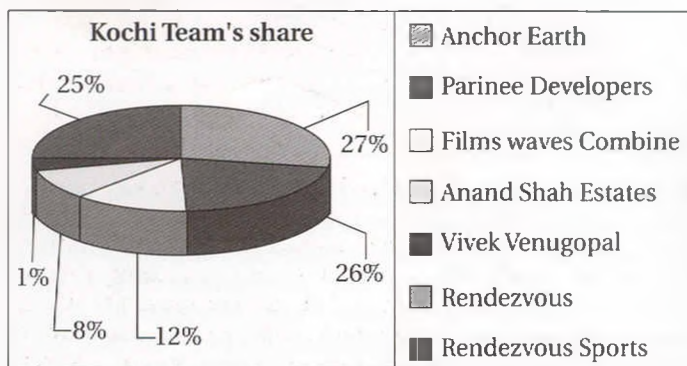
As the bid by Sahara and Rendezvous was higher, they won the bid. This has increased the number of franchises from 8 to 10 and the number of matches from 60 to 94.

IPL: THE BUSINESS OF BIG BUCKS AND BIG PEOPLE

How big is the IPL business? Really difficult to estimate. Optimists reckon the revenue earnings of the BCCI and the 8 teams might be a little over Rs 2,000 crore this season. With TV advertising revenues, it would swell to around Rs 2,700 crore. It must fork out about Rs 620 crore to the 8 teams as their share from the central pool of revenues. It will pay out another Rs 33 crore as prize money and umpire salaries. This will leave it with a non-taxable income of around Rs 517 crore. The revenues of the BCCI and the 8 teams would put IPL on a par with Glaxo SmithKline Pharmaceuticals (Rs 2,057 crore last year) and above Vijay Mallya's United Breweries (Rs 1,983 crore) and much higher than Videocon Industries (Rs 415 crore).

What began as a juicy side-show to the IPL is now threatening to drab the tournament itself. The sport which is been worshipped as religion in India and has emerged in the form of new era of entertainment in the form of IPL, has certainly been marred with controversies over the award of the Kochi franchise.

The drama began on March 21, 2010 when the Rendezvous consortium (Kochi) and Sahara (Pune) won the bids for the ninth and 10th franchises of the IPL. They were unexpected winners as two other large business groups were hoping to win the rights for Pune and Ahmedabad. Modi not being happy about the purchase leaked names of new Kochi team's shareholders along with their stakes on the social media site, Twitter on 18th April, 2010 as follows:



Modi also disclosed that the above composition includes Rendezvous sports holding 25% of the share in which Sunanda Pushkar close friend of Shashi Tharoor's and Dubai-based businesswoman, owning 18 per cent free equity as sweat equity. The value of Pushkar's stake in Kochi franchisee is \$15.82 million (about Rs 70 crore). Tharoor in return accused

Modi of an extraordinary breach of all propriety regarding the consortium buying Kochi team. IPL Kochi team owners claimed that Modi offered them \$50 million to sell the team. Kochi team CEO Shailendra Gaikwad claimed that Sunanda Pushkar has above 18 percent share in the company since she is going to look after the marketing, brand building, franchising of the company. Modi claimed that Tharoor contacted him and did not want him to publish any names. Tharoor denied the claim and said that he has only acted as a mentor and not paid or received even a rupee for the Kochi team, and that Modi was acting on behalf of a rival bidder for the team. The case attracted involvement from the Indian government. Tharoor was forced to resign as foreign affairs minister on 19th April, 2010 due to the governmental pressure. BCCI, President Shashank Manohar cited reasons for which Modi has been charged:

- Shady initial bids of Rajasthan Royals and King XI Punjab,
- A suspect broadcast deal with Sony,
- Bid rigging of two new franchises i.e. Kochi and Pune team and his behavioural pattern.

These are the main allegations made against Lalit Modi. Due to this reasons, Lalit Modi was suspended as the IPL commissioner and issued a show-cause notice capping two weeks of raging controversy over financial wrong-doings in the globally popular cricket tournament. Board of Control for Cricket in India also appointed a three-member committee to oversee the functioning of the Indian Premier League. The members are former cricketers Sunil Gavaskar, Ravi Shastri and Mansoor Ali Khan Pataudi.

Even before the scandal surfaced it had become apparent that at least some of the teams were partly owned by the people responsible for overseeing the league, or by their families.

The husband of Mr. Modi's wife's sister, for instance, owns a big stake in the Rajasthan Royals franchise. A company controlled by the husband of Mr. Modi's stepdaughter owns rights to show league games on the Internet and mobile phones, and he holds a stake in another team, the Kings XI Punjab. Other sports officials involved in overseeing the league also own teams. The inquiry includes offshore shell companies through which shares in the teams are held. Critics have long asserted that team owners are using these legal entities to obscure their ownership. *

The Indian Premier League (IPL) has thrown up plenty of interesting scenarios that have opened up fresh avenues of discussions in the Indian media and the blogosphere. They are as follows:



AJOR ISSUES

1) BREACH OF TRUST: CONFIDENTIALITY CLAUSE - IPL gained popularity solely not because of the inherited game rather than the controversies surrounding, which has made it win "talk of the town" crown. One of the major controversies is an allegation came from Kochi team owners who accused IPL Commissioner Lalit Modi for "Breach of Trust". Lalit Modi has

disclosed various vital aspects of the contract. The information disclosed includes the shareholding pattern of the consortium as well as the shareholding patterns of various participating consortium member companies. However, this kind of information has not been disclosed for the other nine teams participating in the league. This has been claimed as Modi's extraordinary breach of all propriety in publicly raising issues relating to the composition of the consortium and an attempt to discredit the team and create reasons to disqualify it so that the franchise can be awarded elsewhere. This unethical behaviour has provided a shocking experience to its affected parties.

2) SWEAT EQUITY - Sweat equity means equity shares issued by the company to the employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value addition by whatever name called. The following conditions illustrates that Rendezvous sports has violated the provisions of the Companies Act, 1956 by granting 18 percent Sweat Equity to Sunanda Pushkar:

- Sweat equity shares can be issued by a company after one year of its incorporation; however Rendezvous has not completed one year since it came into existence in March, 2010.
- Sweat equity shares may not exceed 15% of the share capital and may not exceed Rs. 5 crores in value; Ms. Pushkar appears to have received 18% equity at a valuation of Rs. 70 crore. In order to go above the shareholding percentage and valuation ceilings, prior government approval must be obtained; there appears to be no prior government approval
- Issue of sweat equity needs to be passed by a special resolution; no confirmation that such a resolution was passed.
- In addition, pursuant to section 77A of the Companies Act, there are specific regulations regarding the buyback of shares including where the company must get the resources for the buy back and objectives, conditions and procedures for the buy back of shares. All of these provisions must be complied with in order for the company to buy back Ms. Pushkar's shares.

3) TAX IMPLICATIONS - Income Tax department has spread its wings in order to nab tax evaders in the high profile IPL case. After certain investigation they found out that under IPL 1 and 2, IPL paid Rs. 29 crore service tax for IPL 2, as opposed to Rs. 64 crore for IPL 1. The Central Board of Excise and Custom (CBEC) is not convinced that the service tax collections from IPL2 were lowered just because the tournament was played abroad. "Since most of the tax paying parties – the franchiser, the franchisee, and various service providers – were the same for both IPL 1 and IPL2, there should not be such a drastic drop in the tax payments." Entertainment tax is also an important aspect, about which issues has been raised. Entertainment tax in India signifies the tax paid by the entertainment industry in India. The entertainment tax in India is usually applicable for large-scale entertainment shows, private festivals that are sponsored, movie tickets, video game arcades, and

amusement parks among others. The IPL is conceptualized as an entertainment spectacle and is also pitched as the ultimate destination of TV entertainment. The main objective of the IPL is to provide entertainment and hence merited levy of entertainment duty on sale of tickets. Exempting IPL 3 from entertainment tax resulted loss of about Rs 5 crore for Maharashtra Government. So tax exemption should not be provided in this type of entertainment based commercial ventures.

4) NON COMPLIANCE TO LAW BY BCCI- The BCCI authorities have taken a decision to suspend Mr Modi over e-mail and conducting the IPL Governance Council meeting in his absence. It is interesting to note that Mr Modi has been suspended not through a proper notice in writing but with an e-mail. Under ITA 2008 it is required that any e-mail document to be valid in law needs to be digitally signed. This is not the first time that BCCI has betrayed their lack of legal acumen. It may be recalled that during the Saurav-Chappel controversy, e-mails were freely used during disciplinary meetings as evidences on the basis of which far reaching decisions were taken. This is the tip of the iceberg which indicates that "Law Compliance" is not one of the strengths of BCCI. In view of the involvement of many politicians, many of these questions have been buried under the carpet and BCCI has emerged as an example of how organizations can thrive without being law compliant in India.

5) NUDGE TO BUSINESS ETHICS- The process of bidding even the first time was not designed to extract the best price. It was a process to create a closed club of preferred people. Modi, the suspicions are, was looking to pick and choose (as far as he could) the people who would own the clubs. That is why the bids were low for Jaipur, Calcutta and Punjab. Also Multi Screen Media (MSM), formerly Sony Entertainment Television, holds the telecast rights for the IPL which it bagged for \$1.02 billion for 10 years in 2008. The deal was later scrapped by the BCCI, which renegotiated with MSM for a nine-year deal for \$1.63 billion. Tax sleuths are focusing on a "facilitation fee" of \$80 million (about Rs 356 crore) which MSM paid the Mauritius arm of World Sports Group, the marketing agency of the IPL. MSM says the fee was paid to WSG to give up its broadcast rights for the Indian subcontinent, thus paving the way for the BCCI and MSM to enter into a direct deal. The suspicion is that the money was routed back to India to be paid as kickbacks to top people associated with the IPL.

6) ANOTHER TAX SCANDAL ON THE WAY: IPL has attracted cricketers from countries such as New Zealand, Australia, South Africa, etc. India has signed double tax avoidance agreements with these countries, and assuming that the overseas cricketers playing in IPL are tax residents of their home country, they could take benefits of the respective tax treaty. The tax treaties executed by India contain a specific article dealing with taxation of "entertainers and athletes/sportspersons". The tax treaty executed by India with countries such as Australia, New Zealand and Sri Lanka specifies taxability of "athletes"; however, certain tax treaties executed with countries such as South Africa specify the taxability of "sportspersons". Given that certain tax treaties

executed by India use the word athlete, it seems that in the context of overseas cricketers from such countries, a possible contention could be raised that cricketers are not athletes and hence the relevant article dealing with athletes should not apply; if that does not apply, which provision would? The answer could be an article called Independent Personal Services, which requires (to attract taxability) either a fixed base in the country where services are rendered or a stay for a particular period during the year, which is 183 days in a year in the tax treaty with Australia, and 120 or 183 days during a 12-month period in the case of Sri Lanka and New Zealand, respectively. The implication is that if this view is possible, then the cricketers would be taxable only if they cross the threshold number of days. The article relating to taxation of "entertainer and athletes/sportspersons" inter alia provides that income derived by an athlete/sportsperson from his or her "personal activities" would be taxed in the state where these are performed. Further, the article provides that where such income accrues not to the athlete/sportsperson but to another person, the income would still be taxed where the activities are performed. As per the OECD (Organization of Economic Cooperation and Development) commentary, income of the athlete/sportsperson includes not only fees for the actual sporting activities but also includes in general advertising, sponsorship income, etc., which is directly or indirectly related to the activity. Accordingly, match fee income, winnings from a tournament, or endorsements related to sporting activities, would be taxable in the country where such activities are performed.

The provisions of the article dealing with taxation of "artists and sportspersons" in a tax treaty supersede the provisions of the article relating to business profits, and articles relating to independent and dependent personal services. However, the tax treaties do not provide for the basis of computation of income and hence the same would be governed by the Income-tax Act, 1961. The taxation of international sportsmen and athletes is specifically enshrined in the Act. Section 115BBA provides that income earned by non-resident sportsmen by (i) participating in India in any game or sports, (ii) advertisements and (iii) contributing articles relating to the game or sports would be subject to tax in India, the rate of tax being 11.33% on a gross basis (inclusive of surcharge and education cess). Given that the payment would be made to non-residents, the payer of the income would be required to withhold taxes on these payments. A failure could potentially result in disallowance of such expenditure and consequential penal interest. In cases where the tax liability of the non-resident sportsmen is borne by the payer, the tax would need to be grossed up, resulting in an effective tax rate of 12.78%, resulting in an increased cost of engaging such international sportsmen. From a compliance standpoint, where

appropriate tax has been withheld from payments to the sportsmen and they have no other income chargeable, they need not file an Indian tax return. To summarize, in relation to those tax treaties where the word used is not "sportsperson" but "athlete", there seems to be a controversy as to the taxability, and one view is that the cricketers are not covered by that Article; but by the article dealing with Independent Personal Services and, therefore, need to cross a threshold number of days. If that is so, the withholding tax would not apply if such threshold is not crossed. Clearly, a premier battle is on the cards!

CONCLUSION

The short format journey of Indian Premier League (IPL) has attracted everyone with its colourful entertainment and glamour. IPL has provided an opportunity to young enthusiastic players across the globe to come forward for showing their caliber. To appreciate and enjoy their talent, million of fans are sharing their lunch and dinner table like a family member. In a country like India where fans are so much passionate considering the game as their religion where some issues have arose which affected the true sentiments of the million of viewers. One of the major controversies arises because of breach of trust committed by IPL commissioner Lalit Modi by disclosing the shareholding pattern of newly built Kochi team. Some of the other issues also came into existence viz. allotment of sweat equity shares, tax implications, initial screw up in allotment of teams, non compliance to law by BCCI, tax goof up of international players which have shown that IPL is on the verge of losing the true essence of cricket. It reflects that IPL was played for the sake of money only rather than sport. Therefore, it is necessary to run a vigorous and smart investigative agency that can track economic crimes and also has the authority to penalize offenders. These may prove to be helpful in maintaining the spirit of the game.

QUESTIONS FOR DISCUSSION

- Q1. Do you think that all these issues will dwindle the popularity of IPL in particular and cricket at large?
- Q2. According to you, what impact this whole fiasco of Throor-Modi controversy, and other issues which bring out the unethical side of the eminent governmental officials will have on the image of India in the cricketing world and standing of India in the international lobbies.
- Q3. How far was it justifiable on the part of the government to let IPL One Modi Show?
- Q4. What steps were required from BCCI ab initio to avoid these situations?

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