

Food & Beverages

Statement of Practice

July 2016

Our Food and Beverages Expertise

Nishith Desai Associates (NDA) is a research based international law firm and has professionals working together seamlessly from our network of offices at Mumbai – Nariman Point, Bangalore, Silicon Valley, Singapore, Mumbai – Bandra Kurla Complex, New Delhi, Munich and New York. We specialize in strategic legal, regulatory and tax advice coupled with industry expertise in an integrated manner. We focus on niche areas in which we provide significant value and are invariably involved in select highly complex, innovative transactions. Our experience and our ability to understand markets and industry specific issues, helps us in providing customized and complete legal solutions to each of our clients. Our key clients include marquee repeat Fortune 500 clientele, of which over 60 per cent are US corporations.

As we maintain our focus on catering to industries, we have gathered expertise and experience in handling varied matters in each of the segments we focus on (again, our firm presentation will give you an insight on the number of industries we render services to). The Food and Beverage industry is one of the industries the firm focusses on. We have undertaken projects in the past and are currently involved in several projects where we are advising our clients on legal, tax and regulatory issues surrounding the food and beverages segment in India.

The firm has extensive experience backed with research and creativity. Food and Beverages is one of our most passionate industry areas. All our industry practices are recognized to focus on complex issues requiring cross-border expertise. NDA's food and beverages practice is no different. We only work with selective clients who seek our expertise as 'trusted advisors'. With a view to providing high quality and customized services to our clients, we adopt a team based approach to professional assignments. In addition to the involvement of the above mentioned members, we would be drawing upon resources from various teams and expertise available within the firm.

We advise clients on several aspects right from strategizing entry into India, establishing businesses in India (including the incorporation of companies, setting up of branch / liaison offices), to structuring the transactions. Structuring also includes advising on the wholesale and retail aspects and drafting, negotiating contracts such as marketing and distribution, service, franchising, IP assignment and license agreements. We also advise on specific regulatory issues connected with manufacturing of food items, food safety, import of food and beverage products, labeling, promotion & advertisements (as certain segments such as those relating to infant foods / infant milk substitutes are quite sensitive in India), warehousing and the like.

Particularly, in the food and beverages industry, we have been involved in the following deals:

- **Johnson & Johnson:** - We assisted Johnson & Johnson in its brand acquisition of the electrolyte drink ORSL, a liquid form of oral rehydration salts, from Jagdale Industries Limited, which included advising them on an optimum structure from a tax and exchange controls perspective.
- **Goldman Sachs:** - We have advised Goldman Sachs in their USD 10 million and USD 5 million follow on investment into Azure Hospitality Private Limited (company that runs Mamagoto, and two other fast food brands – Speedychow / Rollmaal).
- **Zodius:** - We have advised Zodius in their investment of INR 110 Crore into Foodvista India Pvt. Ltd (company that runs Freshmenu).
- **Tea Culture of the World and Tea Thrills:** - We have advised Tea Culture of the World and Tea Thrills in their regulatory, franchising and IP litigation work.

- **Saama Investment:** - We have acted as legal Counsel to Saama in relation to their investment and conducted due diligence on Veeba Food Services Private Limited, engaged in supply of vegetable sauces, mixes, food based emulsions of various forms (such as mayonnaise, ketchup etc.) to large scale retail F&B vendors such as Taco Bell, Burger King, Dominos, KFC etc. from a FSSAI perspective as well as general corporate due diligence.
- **Mitsui Global Investment:** - We have acted as legal counsel to Mitsui Global Investment (“MGI”), an affiliate of Mitsui & Co. Ltd. and advised on strategic and legal aspects including due diligence, legal and tax structuring, negotiations and documentation for making an investment of USD 50 million by MGI along with Goldman Sachs on Global Beverages & Foods Private Limited (“GBFPL”), a company engaged in the food and beverages sector, founded by Mr. A Mahendran, the former managing director of Godrej Consumer Products Limited.
- **Azure Hospitality:** - We have advised Azure Hospitality – in relation to various aspects including setting up a restaurant offshore, licensing requirements, setting up various outlets, etc.
- **Turmeric Vision Private Limited:** - We have also advised and assisted Turmeric Vision Private Limited (“Food Food” Channel) for documentation of the television channel’s business including drafting contracts for engaging production houses, artistes, crew etc. which included detailed advise and review of the intellectual property related laws as well as tax aspects.
- We are advising one of world’s largest juice and concentrate manufacturer, based out of Latin America on import of their frozen concentrate juice into India through their Indian partner.
- We are currently advising a manufacturing company based in Myanmar in patent filing strategy and general regulatory advice.
- We assisted our client in structuring, drafting, negotiating, reviewing and finalizing documents in connection with a master franchise arrangement with Gloria Jeans to open a chain of coffee shops in India.
- We assisted a French food and nutrition company on food laws and the regulatory framework, including on transfer of food/product licenses/approvals as part of a demerger.
- We assisted our client in drafting, negotiating and reviewing documents in connection with a franchise arrangement with a well-known Indian chef to open a chain of restaurants in India.
- We advised a US based company (engaged in the nutraceuticals business) on setting up their operations in India and we continue to, on an ongoing basis, advise and assist them on legal, regulatory and tax aspects in connection with their business activities in India.
- We assisted a Japanese restaurant chain with their joint venture arrangement in India.
- We advised a US based fast food chain on its collaboration (for restaurant chains) in India as well as on dispute resolution.
- We advised some local fast food chains in India.

2. Scope of Services

I. Strategic Advice

The Firm advises on legal, strategic and compliance issues related to the applicable legislations in the Food and Beverages industry. The firm provides practical solutions, on the basis of the extensive domain knowledge of the industries, to complex legal problems that arise in this space. We, at NDA, represent food and beverage clients at every phase of their growth cycle, including regulatory, licensing, compliances, research and development, development of intellectual property portfolios, investment and structuring, the protection and litigation of intellectual property as well as tax and IP structuring. The firm is well equipped to provide the legal and tax services associated with multinational clients setting up operations in India.

The firm represents food and beverage clients in a wide range of services including the drafting and negotiation of investment agreements, intellectual property protection and litigation and numerous finance, Joint Venture, M&A, private equity and venture capital transactions.

II. Regulatory Issues

We advise our clients on various regulatory issues and compliances related to FSSAI, general corporate and regulatory work for food and beverage companies in India. We also advise funds and investors inclined on investing in India in the form of joint ventures, partnerships and collaborations in this sector.

III. Documentation and Advisory Services

Our team advises clients in the structuring, drafting and negotiation of various contracts including contract manufacturing agreements, contract research, service agreements, marketing and distribution agreements, franchising agreements and IP assignment and license agreements.

IV. Investments

We advise overseas private equity investors and venture capital funds on their investments in the food and beverages sector. We provide our services from Term sheet, Due Diligence, Documentation and Negotiations. We were involved in certain important deals in the recent past.

V. Corporate Transactions

Our team provides advice and assistance in various corporate transactions which include Mergers & Acquisitions, Joint Ventures and various collaborations related to the licensing, franchising and negotiating for companies in food and beverage sectors.

VI. IP Advisory

Our team assists clients in the diligence, drafting, filing and prosecution of intellectual property applications. We routinely handle the drafting of complex patent specifications for a wide array of technologies in addition to filing domestic, PCT and National Phase patent applications and assist in the filing of foreign patent applications and freedom to operate opinions. We assist clients in identifying their intellectual property in order to formulate comprehensive strategies to help clients protect and leverage such intellectual property. We also assist companies in managing patent compliance, patent landscape study as well as trademark portfolio management with uniquely designed software.

VII. Litigation

Our team assists and advises our clients regarding pre-litigation strategies with respect to the current IP and regulatory landscape in India. We represent our international and domestic clients in IP litigation and alternate dispute resolution. The firm has a robust dispute resolution practice with members having skill and expertise to represent clients in different forums. We have extensive experience representing clients at every level of the judicial system and virtually all disputes, from relatively simple matters to highly complex cases in product liability, patent infringement, antitrust and securities.

VIII. Due Diligence

Due diligence plays an important role in the service and representation of our clients. By specializing in the due diligence of food and beverage entities, we are able to offer our clients extensive advice in the compliance of FSSAI, intellectual property and corporate regulation. Our expertise in the food and beverages sector enables us to identify critical issues that a financial or strategic investor in food and beverage companies should carefully understand and address.

IX. Structuring

Our team advises clients on structuring transactions in view of the tax, legal and regulatory regime in India. On the tax structuring side, we routinely advise and determine tax favorable jurisdictions for investment purposes, permanent establishment, and transfer pricing instruments. We also facilitate the establishment of business in India, including the incorporation of companies and logistical operations of setting up branches and liaison offices in India. We have and continue to advise several new life sciences clients on their India-related operational activities.

X. Training

We conduct workshops and make presentations for employees of food and beverage companies on regulatory, compliance issues, approvals and permits needed as well as other applicable laws.

3. Select Representative Clients

- Azure Hospitality
- Saama Capital
- DSG Consumer Partners
- Johnson & Johnson
- Veeba Food Services Pvt. Ltd.
- KFC
- Pizza Hut
- Burger King
- Taco Bell
- Tea Culture of India
- Tea Thrills
- Starbucks

Contacts

Gowree Gokhale

gowree.gokhale@nishithdesai.com

+91 9867640714

Payel Chatterjee,

Payel.chatterjee@nishithdesai.com,

+91 77380 92817

About NDA

Nishith Desai Associates (NDA) is a research based international law firm with offices in Mumbai, Bangalore, Palo Alto (Silicon Valley), Singapore, New Delhi, Munich and New York. We provide strategic legal, regulatory, and tax advice coupled with industry expertise in an integrated manner.

As a firm of specialists, we work with select clients in select verticals on very complex and innovative transactions and disputes.

Our forte includes innovation and strategic advice in futuristic areas of law such as those relating to Bitcoins (block chain), Internet of Things (IOT), Aviation, Artificial Intelligence, Privatization of Outer Space, Drones, Robotics, Virtual Reality, Med-Tech, Ed-Tech and Medical Devices and Nanotechnology.

We specialize in Globalization, International Tax, Fund Formation, Corporate & M&A, Private Equity & Venture Capital, Intellectual Property, International Litigation and Dispute Resolution; Employment and HR, Intellectual Property, International Commercial Law and Private Client. Our industry expertise spans Automobile, Funds, Financial Services, IT and Telecom, Pharma and Healthcare, Media and Entertainment, Real Estate, Infrastructure and Education. Our key clientele comprise marquee Fortune 500 corporations.

Our ability to innovate is endorsed through the numerous accolades gained over the years and we are also commended by industry peers for our inventive excellence that inspires others.

NDA was ranked the 'Most Innovative Asia Pacific Law Firm in 2016' by the *Financial Times - RSG Consulting Group* in its prestigious FT Innovative Lawyers Asia-Pacific 2016 Awards. While this recognition marks NDA's ingress as an innovator among the globe's best law firms, NDA has previously won the award for the 'Most Innovative Indian Law Firm' for two consecutive years in 2014 and 2015.

As a research-centric firm, we strongly believe in constant knowledge expansion enabled through our dynamic Knowledge Management ('KM') and Continuing Education ('CE') programs. Our constant output through Webinars, Nishith.TV and 'Hotlines' also serves as effective platforms for cross pollination of ideas and latest trends.

Our trust-based, non-hierarchical, democratically managed organization that leverages research and knowledge to deliver premium services, high value, and a unique employer proposition has been developed into a global case study and published by John Wiley & Sons, USA in a feature titled 'Management by Trust in a Democratic Enterprise: A Law Firm Shapes Organizational Behavior to Create Competitive Advantage' in the September 2009 issue of Global Business and Organizational Excellence (GBOE).

A brief below chronicles our firm's global acclaim for its achievements and prowess through the years.

- IDEX Legal Awards: In 2015, NDA won the "M&A Deal of the year", "Best Dispute Management lawyer", "Best Use of Innovation and Technology in a law firm" and "Best Dispute Management Firm<<http://idexlegalawards.in/ArticlePage.aspx?aid=6>>". Nishith Desai was also recognized as the 'Managing Partner of the Year' in 2014.
- Merger Market: has recognized NDA as the fastest growing M&A law firm in India for the year 2015.
- Legal 500 has ranked us in tier 1 for Investment Funds, Tax and Technology-Media-Telecom (TMT) practices (2011, 2012, 2013, 2014, 2017)

- International Financial Law Review (a Euromoney publication) in its IFLR1000 has placed Nishith Desai Associates in Tier 1 for Private Equity (2014, 2017). For three consecutive years, IFLR recognized us as the Indian “Firm of the Year” (2010-2013) for our Technology - Media - Telecom (TMT) practice.
- Chambers and Partners has ranked us # 1 for Tax and Technology-Media-Telecom (2014, 2015, 2017); #1 in Employment Law (2015 & 2017); # 1 in Tax, TMT and Private Equity (2013, 2017); and # 1 for Tax, TMT and Real Estate – FDI (2011).
- India Business Law Journal (IBLJ) has awarded Nishith Desai Associates for Private Equity, Structured Finance & Securitization, TMT, and Taxation in 2015 & 2014; for Employment Law in 2015
- Legal Era recognized Nishith Desai Associates as the Best Tax Law Firm of the Year (2013).

Please see the last page of this paper for the most recent research papers by our experts.

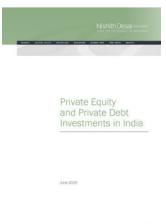
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The following research papers and much more are available on our Knowledge Site: www.nishithdesai.com

	EdTech: From IT to AI <small>A Legal Perspective</small> July 2016		E-Commerce in India <small>Social Impact Investing in India A Supplement to Corporate Social Responsibility and Social Business Models in India - A Legal & Tax Perspective</small> May 2017		The Curious Case of the Indian Gaming Laws <small>The Curious Case of the Indian Gaming Laws Legal Issues Demystified</small> January 2017
	Corporate Social Responsibility & Social Business Models in India <small>Corporate Social Responsibility & Social Business Models in India A Legal & Tax Perspective</small> May 2017		Incorporation of Company LLP in India <small>Incorporation of Company / LLP in India FAQs</small> April 2017		Preparing For a Driverless Future <small>Preparing For a Driverless Future Technology, Economics and Legal Perspectives</small> September 2017
	Internet of Things <small>Internet of Things Legal & Tax Issues</small> January 2017		Doing Business in India <small>Doing Business in India With Special Reference to Tax Treaties between India and Canada, Australia, Japan, Malta, Mauritius, Singapore, Germany, UK, USA</small> June 2016		Private Equity and Private Debt Investments in India <small>Private Equity and Private Debt Investments in India</small> June 2015

NDA Insights

TITLE	TYPE	DATE
Blackstone's Boldest Bet in India	M&A Lab	January 2017
Foreign Investment Into Indian Special Situation Assets	M&A Lab	November 2016
Recent Learnings from Deal Making in India	M&A Lab	June 2016
ING Vysya - Kotak Bank : Rising M&As in Banking Sector	M&A Lab	January 2016
Cairn – Vedanta : 'Fair' or Socializing Vedanta's Debt?	M&A Lab	January 2016
Reliance – Pipavav : Anil Ambani scoops Pipavav Defence	M&A Lab	January 2016
Sun Pharma – Ranbaxy: A Panacea for Ranbaxy's ills?	M&A Lab	January 2015
Reliance – Network18: Reliance tunes into Network18!	M&A Lab	January 2015
Thomas Cook – Sterling Holiday: Let's Holiday Together!	M&A Lab	January 2015
Jet Etihad Jet Gets a Co-Pilot	M&A Lab	May 2014
Apollo's Bumpy Ride in Pursuit of Cooper	M&A Lab	May 2014
Diageo-USL- 'King of Good Times; Hands over Crown Jewel to Diageo	M&A Lab	May 2014
Copyright Amendment Bill 2012 receives Indian Parliament's assent	IP Lab	September 2013
Public M&A's in India: Takeover Code Dissected	M&A Lab	August 2013
File Foreign Application Prosecution History With Indian Patent Office	IP Lab	April 2013
Warburg - Future Capital - Deal Dissected	M&A Lab	January 2013
Real Financing - Onshore and Offshore Debt Funding Realty in India	Realty Check	May 2012

Research @ NDA

Research is the DNA of NDA. In early 1980s, our firm emerged from an extensive, and then pioneering, research by Nishith M. Desai on the taxation of cross-border transactions. The research book written by him provided the foundation for our international tax practice. Since then, we have relied upon research to be the cornerstone of our practice development. Today, research is fully ingrained in the firm's culture.

Research has offered us the way to create thought leadership in various areas of law and public policy. Through research, we discover new thinking, approaches, skills, reflections on jurisprudence, and ultimately deliver superior value to our clients.

Over the years, we have produced some outstanding research papers, reports and articles. Almost on a daily basis, we analyze and offer our perspective on latest legal developments through our "*Hotlines*". These *Hotlines* provide immediate awareness and quick reference, and have been eagerly received. We also provide expanded commentary on issues through detailed articles for publication in newspapers and periodicals for dissemination to wider audience. Our *NDA Insights* dissect and analyze a published, distinctive legal transaction using multiple lenses and offer various perspectives, including some even overlooked by the executors of the transaction.

We regularly write extensive research papers and disseminate them through our website. Although we invest heavily in terms of associates' time and expenses in our research activities, we are happy to provide unlimited access to our research to our clients and the community for greater good.

Our research has also contributed to public policy discourse, helped state and central governments in drafting statutes, and provided regulators with a much needed comparative base for rule making. Our *ThinkTank* discourses on Taxation of eCommerce, Arbitration, and Direct Tax Code have been widely acknowledged.

As we continue to grow through our research-based approach, we are now in the second phase of establishing a four-acre, state-of-the-art research center, just a 45-minute ferry ride from Mumbai but in the middle of verdant hills of reclusive Alibaug-Raigadh district. The center will become the hub for research activities involving our own associates as well as legal and tax researchers from world over. It will also provide the platform to internationally renowned professionals to share their expertise and experience with our associates and select clients.

We would love to hear from you about any suggestions you may have on our research reports.

Please feel free to contact us at
research@nishithdesai.com

Nishith Desai Associates

LEGAL AND TAX COUNSELING WORLDWIDE

MUMBAI

93 B, Mittal Court, Nariman Point
Mumbai 400 021, India
tel +91 22 6669 5000
fax +91 22 6669 5001

SILICON VALLEY

220 S California Ave., Suite 201
Palo Alto, California 94306, USA
tel +1 650 325 7100
fax +1 650 325 7300

BANGALORE

Prestige Loka, G01, 7/1 Brunton Rd
Bangalore 560 025, India
tel +91 80 6693 5000
fax +91 80 6693 5001

SINGAPORE

Level 30, Six Battery Road
Singapore 049 909
tel +65 6550 9856

MUMBAI BKC

3, North Avenue, Maker Maxity
Bandra-Kurla Complex
Mumbai 400 051, India
tel +91 22 6159 5000
fax +91 22 6159 5001

NEW DELHI

C-5, Defence Colony
New Delhi 110 024, India
tel +91 11 4906 5000
fax +91 11 4906 5001

MUNICH

Maximilianstraße 13
80539 Munich, Germany
tel +49 89 203 006 268
fax +49 89 203 006 450

NEW YORK

375 Park Ave Suite 2607
New York, NY 10152
tel +1 212 763 0080

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