



IVYSCOPE

ISSUE 5 | 2014



COVER STORY

COMING OF THE NEW GOVERNMENT, IMPACT ON THE VC INDUSTRY



NISHITH DESAI

Nishith Desai is the founder of the multi-skilled, research-based law firm, Nishith

Desai Associates (“NDA”), which has offices in Mumbai, Silicon Valley, Bangalore and Singapore. He is an international tax and corporate lawyer, researcher, author and lecturer. In November 2004, Nishith Desai was ranked as No. 28 in a global Top 50 “Gold List” by Tax Business, a UK-based journal for the international tax community, after a worldwide survey of tax professionals who had influenced tax policies. He also holds a special license from the State Bar of California to practice Indian law

Back in 1989, your firm must have been one of the pioneers in its own field. What motivated you to start your own firm?

I am someone who you would call a constructive contrarian. I like to challenge status quo. I have a constant urge to do new things and enjoy changing the world- for the better. Back in 1984-85, while I was still a solo practitioner, a cousin suggested to me that I should to set up a law firm. However, I didn't want to set up yet another law firm that provided the same services as many others. I was keen to set up something 'distinctly different'. So, for the next four years, I studied over hundred professional firms—accounting/consulting/law and others. After which, I developed a new law firm model in 1990-Nishith Desai associates (NDA). It was based on research, academic, thought leadership and innovations, not just billable hours.

Our firm model has now become a case study in the professional services industry. Recently, Financial Times (London) has just conferred upon us as 'The Most Innovative Indian

Law Firm'. Interestingly, the FT also ranked us as number 2nd under 'The Most Innovative Law Firm' in Asia Pacific including Australia (APAC-A). FT further commented, "Nishith Desai created a model and approach radically different from that of most international premium law firms. The model was ahead of its time". We now rank high both on profitability as well as quality in our ratings. The passion to be able to create this difference is what drove me to establish a new institution. I am very excited of our achievements.

Apart from legal advice, your firm is quite active in research articles and publications. Please tell us more about the idea behind that.

Traditional law firms begin their research when a client comes to them with specific issues. It comes at the cost of client billable time. Instead, we invest huge time (sometimes as high as 35% of our total time), money and resource into research and innovation. We believe that every new technology, every new financial instrument and every new business model brings along with it a new legal or tax issue.

Look at topics like ecommerce, Wi-Fi, WiMAX, cloud computing, data analytics, stem cell, surrogacy etc. Think of how many legal and tax issues have arisen since? Remember "Right to forget"? A new legal right introduced by Google.

We follow the NDA way – 'anticipate, prepare and deliver'. Anticipate the future, prepare today and deliver when the time comes- at the speed of thought. During an Anticipation phase, we do trend assessment and forecasting of new technologies and new businesses. In preparatory phase, we shortlist some trends and delve deeper into them. We conduct extensive secondary and even primary studies. We are now ready to deliver high quality, insightful advice at the speed of thought to our clients. For instance, we now have a dedicated practice group ready to advice on legal and tax issues in Bitcoins. We believe Bitcoins could be and will be a hugely disruptive technology within the banking sector and benefit the poorest section, as it would almost eliminate transaction costs. Most of our research conducted (on firm expense) and published is in the public

domain and free of cost. Sometimes people refer to us as an 'Open Source firm'. We have realized that by sharing, we are learning more.

In your view, how business friendly is the current law environment and tax policies in India? How does that compare to other countries, say the US?

Unfortunately, the system currently is not so business friendly. Whether you want to start a company, raise money or go to the market, there are a lot of procedural and other hiccups. The law is ambiguous and penalties/prosecution are increasing. The US law is complicated but clearer and penalties are proportionate to the crime committed. The manner and way in which laws are drafted in our country, is extremely poor. For the most part, people end up taking a judgement call as to what is legal without consulting a lawyer. Consequently, when and if they are legally non-compliant, the penalties imposed and prosecution served is severe. The biggest proof of this unfortunate situation is that India now ranks number one on the tax misery index, a position arguably held by France earlier. With the retrospective and extra-territorial taxes, the situation only became worst. Businesses may shy away from here. However, currently there is fresh air of hope.

What are the key changes that should be brought in the system to make them more business friendly?

Firstly, from a lawyers' perspective, we must convey a message that we welcome investment in every sector and invite foreign investment. We need to create trust between the government and those that are governed. That could be done by framing policies that are business friendly and demonstrate a degree of trust in people. Policy drafting must be clear enough, so that people can act on it. Secondly, we need to thoroughly revamp the judiciary. Thirdly, we need to strictly check bureaucratic discretion in every legislation to check for corruption

at any stage. Fourthly, archaic laws and procedures should be eliminated. And finally, we need to move from Democracy to Netocracy. By using technology we can develop a system of real time legislation, amendment to laws and repeal thereof when they are no longer needed or have turned obsolete.

You would have been a part of multiple transactions and structuring exercises of different funds. Which fields/sectors do you think have been the biggest beneficiaries of VC investment?

The biggest beneficiary is definitely the technology space, which includes bio-technology as well. Also, though technology has grown in India it has not reached levels where it could potentially be. I also feel that particularly in India, there is a huge untapped opportunity for social entrepreneurship. The scalability is the biggest advantage for us, owing to the size of the market available. India could be a social lab just as Silicon Valley has been for technology.

“ The manner and way in which laws are drafted in our country is extremely poor. For the most part, people end up taking a judgement call as to what is legal without consulting a lawyer. ”

What is your reading of the role of Venture Capitalists in today's investment landscape?

Firstly, they should be able to smell an idea and bet on it. They should have the sense to judge what can become big and have the risk appetite to put their money where their mouth is. Also, the idea itself is not enough. A good idea is only 1/3rd the battle won, the key lies in the execution. So the second thing they need to do is to help the entrepreneurs execute the idea. The last thing that they should do is to monitor the governance of the portfolio companies, because much of the value lies in the management. To my mind, these are the roles that the venture capitalists can play.

What is your view of the investments made by the fund so far?

I think the fund has invested in very interesting ventures. I am excited to be on the advisory board of this company. I really enjoy what I have been doing here and it has been good fun to work with the team at IvyCap. I have hardly taken any other advisory role of this nature but I fundamentally like the model of IvyCap. I like their desire to make profits but with a purpose to give back. In the process, I have also learned about new ideas/businesses and have enjoyed that. I would want to mentor the entrepreneurs, share my experience and nurture them. To me it's the joy of seeing the baby growing up to be a useful member of society.

What are your expectations from the fund, going forward?

I think the primary goal is to create value for the investors and the portfolio companies. The success of portfolio companies is important not just from a returns perspective but it also fulfils the key purpose of nurturing the entrepreneurial ecosystem and budding minds.

What are some of the key attributes which entrepreneurs need to possess in order to launch and run successful ventures?

The entrepreneurs need to be passionate. The initial passion is not to make money but the desire to do something different, and in the process make money. They need to have an out of the box thinking. They should build persistence and develop an ability to be able to go through highs and lows. They should have the courage to withstand crisis. When we started out, most of the trends which we predicted did not materialise. However, with time and experience, over 80% of our forecasts come true. Lastly, they should realise that to fail is not a crime but to fail dishonestly is a crime. Stay true to what you are doing.

With the new government in place, how do you think that would impact the overall economy and investment climate in the country?

We are very bullish on the new government right now and so far, they have delivered. I am confident that there will be a positive spillover effect on the economy. However, they need to be careful that some elements should not derail this redevelopment process. The government so far has shown the will, even by taking some unpopular but important decisions. I feel that if this government with absolute majority can't improve the scenario, no other government can. Another important measure taken by them is the effort to improve the political stability in the region, by reaching out to neighbouring countries. Maintaining law and order should be amongst their top priority.

What would be the impact on the venture capital industry in general and IvyCap in particular?

I am confident that the VC industry is going to see an upsurge. There are some tax problems related to the pass through status but that would most likely be resolved in the coming budget. Hopefully, the regulatory framework for investments will get more streamlined. Ivycap would then be able to make more impactful investments and nurture more ideas.

“

The government so far has shown the will, even by taking some unpopular decisions. I feel that if this government with absolute majority can't improve the scenario, then no other government can.

”

31 Top Institutes
IITs
IIMs
ISB
BITS

Sponsored by

and others

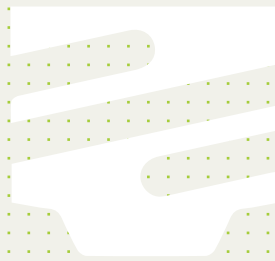
IvyCap Ventures IvyCamp

A first of its kind annual
venture funding & case
study competition

An IvyCap Ventures Initiative

5 Verticals
Social
Healthcare
Tech
Agri+ Rural
Others

20 experts
confirmed
already as Judges
for the Grand Fi-
nale in Mumbai



The screenshot shows the IvyCamp website with a navigation menu (HOME, ABOUT US, THE CHALLENGE, JUDGES, AWARDS, FAQ) and a main section titled "A Unique Business Plan and Case Study Challenge". It lists key features: initiated by a Venture Fund, funding for top plans, a Top Women Entrepreneur award, prizes for top business problem solutions, learnings from real entrepreneur experience, and support by on-campus teams. It also includes sections for "WHO IS ELIGIBLE" and "HOW TO PARTICIPATE".

SPONSORED BY



The screenshot shows the IvyCamp Facebook page with a cover photo of hands holding a plant. The page title is "IvyCamp Challenge Community". The navigation bar includes Timeline, About, Photos, and Likes. A post on the right lists details about the challenge, including awards and support.

The competition is going to be launched in the next couple of months and will consist of campus entries/rounds, regional rounds and a mega final. The mega finals will be held at Mumbai and winners selected by panel of judges drawn from venture capitalists, angel investors and successful entrepreneurs from the IIT - IIM ecosystem. IvyCap Ventures has tied up with a top media house for this grand event. Select teams from IvyCamp will benefit from interaction with the vast pool of Mentors of IvyCap Ventures. IvyCap Ventures and its network of associates will provide funding to the top proposals in IvyCamp.

Best
On-campus
Start-up
Award

Special award for Best Women Entrepreneur
across all verticals and categories!

Best
Off-campus
Enterprise
Award