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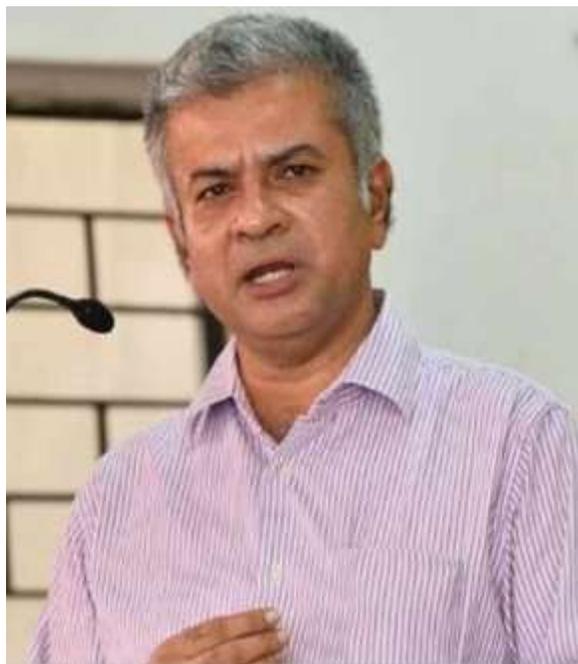
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

**FAST-TRACK MERGERS UNDER SECTION 233 OF
THE COMPANIES ACT, 2013: BALANCING
EFFICIENCY AND STAKEHOLDER PROTECTION IN
THE 2024–25 REFORM ERA**

AUTHORED BY - SRINIDHI S, SEETHALAKSHMI S & SAMYUKTHA V

ABSTRACT

The amendment made to section 233 of the Companies Act, 2013, in the year 2024-25 has substantially increased the ability and expanded the efficiency to undertake fast-track mergers in India and has also introduced stronger compliance and regulations to protect the interests of the stakeholders. Now the redefined statute amalgamates a larger category of unlisted companies, which also includes subsidiary companies, fellow subsidiaries, and foreign holding companies. Before the amendment, the majority of merger and demerger approvals had to be from the National Company Law Tribunal (NCLT), but now, the permission of the Regional Director would suffice, making the approval process and appeal time in the courts quicker and simpler. The new effective changes in the mergers and demergers of a company have subsequently reduced time, cost, and allowed for simpler and easier reconstruction, renewal, and reorganization, especially for mid-sized and start-up companies. The paper examines whether the new amendments to sections have simplified the process at the cost of transparency and protection of stakeholders. It explores the key issues such as reduced financial scrutiny, high approval thresholds, and weaker stakeholder consultation. The main objective of the paper is to assess whether the reforms have struck the balance between easing the business process with corporate accountability. By taking a doctrinal and comparative approach, this study examines the trajectory of legislation, expository guidance from the Ministry of Corporate Affairs, and looks into recent case laws to determine whether the fast-tracking administration has attained its desired goal of efficiency, while continuing to protect the rights of minorities and creditors. By comparing India's framework with the short-form merger regimes in the United Kingdom, Delaware (U.S.), and Singapore, the paper identifies best practices and proportional safeguards suitable for the Indian context. The research concludes by advocating standardized reforms such as stronger disclosure requirements, enhanced management by the

Regional Director, and established appeal rights to achieve the appropriate balance between regulation efficiency and corporate accountability in India's modernization of mergers and acquisitions.

INTRODUCTION

In Indian corporate law, mergers and amalgamations are crucial for the restructuring of a business. In a merger, one company is merged, i.e, absorbed into another company, and the company that is merged ceases to exist and becomes one single entity. In 2023, there was a merger between HDFC Bank and HDFC Limited, becoming a single listed company¹. Whereas in an amalgamation, two or more companies join to form a new company, and the previous entities are dissolved. In the year 2019, there was a merger of Bank of Baroda, Dena Bank, and Vijaya Bank; they together became Bank of Baroda, one single entity². In India, they are governed by the Companies Act, 2013, mainly under sections 230 to 240³, and the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016⁴. Together, these laws provide detailed procedures, approvals, and safeguards to protect shareholders, creditors, and other stakeholders during restructuring. Before the amendment, most of the mergers needed approval from the national company law tribunal (NCLT). While on one side, it ensured judicial oversight and transparency, however, there were also procedural and approval and, resulting in higher costs to companies seeking faster restructuring. These challenges led to the amendment of Section 233.

Rationale behind section 233

The main reason for introducing Section 233 of the Companies Act, 2013, is to streamline and simplify the process for mergers of companies. The three main objectives of the act are first to reduce the excess burden of NCLT. Next is to pave the way for a faster and more cost-effective way of doing business for eligible companies. And finally, to facilitate growth and restructuring

¹ *HDFC Ltd. to Merge into HDFC Bank Effective July 1, 2023, Press Release, HDFC Bank (June 30, 2023), <https://www.hdfcbank.com/personal/about-us/news-room/press-release/2023/q2/hdfc-ltd-to-merge-into-hdfc-bank-effective-july-1-2023>.*

² *Cabinet Approves First-Ever Three-Way Merger in Indian Banking with Amalgamation of Vijaya, Dena and Bank of Baroda, Press Release, Press Information Bureau (Jan. 2, 2019), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1558218>.*

³ *Companies Act, 2013, §§ 230–240 (India).*

⁴ *Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, Gazette of India, G.S.R. 1134(E) (Dec. 14, 2016) (India).*

for small companies, holding or wholly owned subsidiaries, and other specified categories of companies.

In contradiction to the original merger process, which involved detailed judicial scrutiny and NCLT approval, the new FTM mechanism allows the merger program to be approved administratively by the regional director. This significantly reduces procedural delays, thereby accelerating corporate restructuring. However, this shift from judicial to administrative oversight is a debatable topic. Many scholars and practitioners contemplated that the model laid the opportunity for speed and procedural efficiency for the merger program, but it also raises questions regarding whether such an approach adequately ensures accountability, transparency, and stakeholder protection in the corporate merger framework.

The 2024–25 amendment: expanding the fast-track route

The 2024-25 amendment to section 233 of the Companies Act, 2013, introduced through a notification by the Ministry of Corporate Affairs (MCA)⁵, has significantly expanded the categories of companies that are eligible to adopt the fast-track merger scheme. The amended framework substantially increased the number of entities that can benefit from the streamlined merger procedure. It extends eligibility to start-ups, unlisted public companies (excluding section 8 companies), holding companies (both listed and unlisted), along with their subsidiaries, and fellow subsidiaries under the same holding company. The amendments additionally made several procedures simple, including short timelines, reducing the documentation requirements, and shifting from judicial oversight to administrative oversight. To ensure regulatory discipline, companies wishing to take shelter under the amended section must comply with specified financial conditions, such as maintaining prescribed limits on outstanding loans and liabilities, and providing mandatory compliance certifications. These reforms are central to the government of India's "ease of doing business 2.0" agenda to modernize corporate restructuring laws, reduce regulatory burdens, and expedite business consolidation in a global context⁶. It is important to note

⁵ *MCA Widens the Scope of Fast-Track Mergers under the Companies Act, 2013, Press Release, Press Information Bureau (Nov. 11, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2165660>.*

⁶ *American Chamber of Commerce in India, Ease of Doing Business 2.0: Accelerating Transformation for India @100 (Apr. 2024), <https://amchamindia.com/wp-content/uploads/2024/04/Ease-of-doing-business-2.0-Accelerating-transformation-for-India@100-1.pdf>.*

that, despite the ample advantages, the expanded FTM framework is subject to debates over whether such procedural simplification unintentionally reduces stakeholder protections, undermines transparency, and reduces regulatory scrutiny in areas that have traditionally been protected through judicial scrutiny under NCLT oversight.

Research problem and objectives

The FTMs are created for quick decision-making as well as reducing procedural delays; however, the absence of judicial oversight by NCLT may inadvertently limit stakeholder participation and weaken institutional safeguards against potential misuse. This raises crucial questions regarding transparency, fairness, and corporate governance within India's emerging framework of corporate restructuring. In *Asset Auto India Private Limited and its four wholly owned subsidiaries v. Regional Director, Western Region, Mumbai*, the court held that the Regional Director must not outright reject a merger scheme, emphasizing that administrative discretion in the fast-track process must not undermine procedural safeguards and stakeholder rights⁷. The fundamental issue addressed is whether the procedural competency guaranteed under the amendment compromises corporate accountability, the rights of minorities, and protection for creditors.

The paper critically assesses whether the amended section 233 has effectively achieved its objective of facilitating efficient corporate restructuring. It also examines the adequacy of protections available to shareholders, creditors, and other stakeholders in the fast-track merger process. A comparative analysis of India was made with similar frameworks in the UK, USA (Delaware), and Singapore, highlighting strengths and gaps. Legal and policy reforms are proposed to achieve a balance between procedural efficiency, transparency, and stakeholder protection in India's corporate merger landscape.

Significance, methodology, and scope

The scope of section 233 was expanded for the first time through the 2024-25 amendment, indicating a strong push towards modernizing and restructuring mergers, along with easing its regulatory restrictions. This study is significantly relevant in the current context of India's ongoing

⁷ *Asset Auto India Pvt. Ltd. & Its Four Wholly Owned Subsidiaries v. Regional Director, W. Region, Mumbai*, 2024 SCC OnLine Bom 2494 (India), <https://www.casemine.com/judgement/in/6723dac95aaff4100ca644a7>.

shift from judicial oversight to administrative efficiency in corporate regulation. However, this transformation also raises deeper concerns about whether simplification may come at the cost of accountability and stakeholder rights.

By using a doctrinal and comparative analytical approach, this study discusses the ongoing debates in corporate governance and merger control, questioning whether the amendment also protects and preserves legal safeguards. The findings seek to address policymakers, practitioners, and academics on how best to blend business facilitation with corporate responsibility.

SECTION 233: DOCTRINAL AND JURISPRUDENTIAL DIMENSIONS — BALANCING EFFICIENCY WITH ACCOUNTABILITY

Corporate Separateness and Minority Protection

Section 233 represents a noteworthy shift in Indian corporate law. Moving from traditional judicial scrutiny to administrative oversight, emphasizing procedural efficiency. The fundamental principle behind corporate jurisprudence is the concept of a separate legal entity. This ensures that every company that falls under the purview of the Companies Act, 2013, along with its shareholders, gets its protection when it comes to merger transactions. For the merger scheme to take place, it requires approval from 90% of the shareholders and creditors⁸. But, in reality, this majority approval undermines the protection guaranteed to minority shareholders due to the increase in approval rate. They often lose the chance to challenge the Majority's decision.

To the contrary, originally under section 230, the minority shareholders holding at least 10% of share capital or creditors representing 5% of total debt can raise an objection to the NCLT⁹. This main aspect of equitable corporate governance and minority participation is absent in the new amended section 233, which is moving towards procedural efficiency.

Principle of Procedural Fairness

The doctrine of procedural fairness in a corporate setup is upheld when all the stakeholders receive

⁸ *Companies Act, 2013, § 233(1)(b)–(d) (India), https://www.indiacode.nic.in/show-data?actid=AC_CEN_22_29_00008_201318_1517807327856&orderno=237§ionId=49159§ionno=233.*

⁹ *Companies Act, 2013, § 230 (India), https://www.indiacode.nic.in/show-data?actid=AC_CEN_22_29_00008_201318_1517807327856&orderno=234§ionId=49156§ionno=230.*

transparent and adequate consideration during the merger process. That is why formal steps were taken under Section 233, such as mandatory notice to the Registrar of Companies (ROC), Official Liquidator (OL), and Income Tax Department, along with a declaration of solvency by directors to ensure transparency.

Contradicting to the doctrine of procedural fairness established under Section 233, eliminating NCLT hearings, i.e, shifting from judicial to administrative oversight, stakeholders' objections are viewed through the limited review of the Regional Director (RD). This concept has reduced participatory justice, especially when fairness is difficult to value. Hence, the concept becomes symbolic rather than substantive, highlighting the rift between administrative convenience and due process.

Doctrine of Ultra Vires and Public Interest

Under section 233 Regional Director is vested with residual discretionary power to refer a merger proposal to the NCLT if it appears “not in the public interest”. Under MCA guidelines, “public interest” can be interpreted in such a way as to include protection of the creditors, valuation of fairness, ensuring integrity, and overall confidence of the stakeholders.

In *RD v. Hacienda Properties Pvt. Ltd. & Ors.* (NCLT Guwahati, 2024)¹⁰, the tribunal invoked the doctrine of *pari passu*. It held that concerns of the creditor and valuation disputes fall well within the ambit of public interest and therefore require judicial scrutiny. This precedent underscores that administrative approval cannot replace judicial evaluation in matters implicating fairness and financial equity.

In *Om Metals Infraprojects Ltd.* (2022)¹¹, it was held that RD can refer the scheme to the NCLT when minority shareholder rights are subjected to judicial examination even within FTMs. In this

¹⁰ *The Regional Director, N. E. R. v. Hacienda Properties Pvt. Ltd. & Ors.*, CA(CAA) No. 3/GB/2023, Order (N. C. L. T. Guwahati Bench, May 10, 2024), https://nclt.gov.in/gen_pdf.php?filepath=/Efile_Document/ncltdoc/casedoc/1806122003112023/04/Order-Challenge/04_order-Challenge_004_1715328655986632189663dd68f8551e.pdf.

¹¹ *Om Metals Infraprojects Ltd. v. VHV Beverages Pvt. Ltd.*, CA-(CAA) No. 105/ND/2018 & CA-(CAA) No. 169/ND/2019, 2021 SCC OnLine NCLT ND ____ (N.C.L.T. New Delhi, Dec. 9, 2021), <https://www.mondaq.com/india/corporate-and-company-law/1527058/fast-track-merger-regional-director-does-not-have-power-to-reject-the-scheme#:~:text=LKS%20Comments,the%20interest%20of%20the%20creditors>.

case, stakeholders challenged the approval by RD, exposing the inherent limitation in administrative review, and called for a stronger oversight mechanism.

It can be concluded that Section 233's procedural efficiency cannot override the foundational principle of fairness.

MCA Guidelines and Evolving Jurisprudence

In the recent MCA guidelines and NCLT rulings have treated consents of creditors and public interest have been treated as dynamic. Based on the facts, rulings were given rather than following standard procedures. The RD's authority to accept or reject, or escalate a scheme requires some degree of oversight. So far, it remains less rigorous than direct judicial review. Scholars and commentators in their reports have called for explicit preventive safeguards. It should include valuation standards, structured dissent setup, and enhanced disclosure norms to strengthen procedural integrity without compromising the benefit incurred from invoking Section 233.

In corporate restructuring, the doctrinal evolution of Section 233 facilitates India's attempt to balance efficiency with equity. On one side, FTMs without any doubt have modernized the merger process, but on the other side, it should not dilute stakeholder protection due to the speeding of the administrative process. As the regulatory practice evolves, the success of this amendment depends upon how effectively it reconciles ease of doing business along with upholding principles of fairness, accountability, and public interest that are fundamentals to corporate law.

BRIDGING THE GAP: TOWARDS A BALANCED AND TRANSPARENT FAST-TRACK MERGER REGIME

The recent amendment, without a doubt, has extended the scope of India's Fast Track Mergers (FTMs) regime. Yet, one question persists: whether procedural speed comes at the cost of fairness? When the legislative intent of easing the restructuring process is clearly established, there is still scope for reforms without compromising accountability.

1. Refining Eligibility Criteria

Currently, Section 233 applies to small companies, start-ups, and some classes of unlisted public

companies. Nevertheless, when it comes to the definition of small enterprises or enterprises eligible for FTMs, it often excludes growing enterprises that still lack the resources to get into full full-fledged NCLT process. A standardized threshold based on turnover or paid capital could make the framework more inclusive. Additionally, the requirement of 90% approval from shareholders, introduced as a judicial safeguard, in reality proves to be unrealistic. The Company Law Committee (2022) suggests that reducing the shareholder approval rate to 75% aligns with the international norms and protects the consent of the shareholders without undermining genuine mergers¹².

Moreover, companies under Section 8¹³, i.e non-profit companies, could be carefully included under Section 233 through the introduction of a special clause. They should be subjected to scrutiny by the Registrar of Societies or Charity Commissioner to ensure charitable assets remain protected even during structural restructuring.

2. Clarifying the Approval Process

Through judicial interpretation, we can clearly see the inconsistencies in the approval process. In *Om Metal Infraprojects Ltd (2022)*¹⁴, the Bombay High Court held that if any concern arises with regard to the merger scheme, it should not be outright rejected by the Regional Director rather must be referred to NCLT. Despite this, RDs often raise subjective objections on matters that fall on ‘public interest’ grounds. Hence, a proper and clear definition of public interest is established through an MCA notification, which can perhaps prevent administrative overreach.

Parallely, the absence of a clear appeal mechanism against decisions of RD raises doubts on procedural fairness. So, a limited right can be given to the MCA or the NCLT to review the decisions. This could ensure the availability of an appeal mechanism as well as address the issue without delaying the process.

3. Operational and Post-Merger Clarity

Many ambiguities persist in the post-merger period. For instance, treatment of authorized capital or step-down subsidiaries is not addressed. Companies often follow circulars more than going

¹² *Report of the Company Law Committee, Ministry of Corporate Affairs, Government of India, March 2022 (presented 21 Mar. 2022)*, <https://ibclaw.in/report-of-the-company-law-committee-2022/>.

¹³ *Supra note 8, S.8*

¹⁴ *Supra note 11*

through the statutory text. So, codifying these ambiguities through a consolidated MCA circular would reduce the uncertainties. Another crucial area of concern is the neutrality of the Tax. The Income Tax Act does not automatically grant benefits to FTMs, compared to the Section 230 scheme. It leads to differential treatment. Aligning both frameworks could promote consistency and encourage voluntary compliance.

While the fast-track route promised efficiency, it should not become a tool for exclusion.

4. Enhancing Transparency and Minority Protection

Although the fast-track route is based on the concept of efficiency, it should not be a means of exclusion. The imposition of compulsory exit avenues for shareholders who disagree, like SEBI's delisting rules, could be a way of prohibiting coercion in private companies. In a similar way, a public notice system on the MCA website that allows creditors to raise objections on an online basis could make the process more transparent and yet not increase the bureaucracy involved.

While the fast-track route is premised on efficiency, it must not become a tool for exclusion. Introducing mandatory exit options for dissenting shareholders akin to SEBI's delisting norms could prevent coercion in closely held firms. Likewise, a public notice mechanism on the MCA portal inviting creditor objections online could add procedural transparency without adding red tape.

5. Towards a Balanced Model

One of the less discussed but pressing issues with Section 233 is the inconsistent way it's applied by different Regional Directors (RDs). While the law is the same across India, the interpretation often isn't. What one RD might approve without hesitation, another might refer to the NCLT on nearly identical facts. This lack of uniformity defeats the very idea of a "fast-track" process. A company's timeline shouldn't depend on which jurisdiction it falls under.

To fix this, the Ministry could issue binding operational guidelines or a central "standard operating framework" for all RDs. Periodic training or review mechanisms could also ensure that discretion is exercised consistently and transparently. After all, efficiency without predictability is only half a reform; what companies need is both speed and certainty.

2025 Amendment: Expanding the scope of the fast-track merger under section 233 On April 5, 2025, the Ministry of Corporate Affairs proposed an amendment to the Companies (Compromise,

Arrangement, Amalgamation) Rules 2016¹⁵. This amendment was a part of the 2025-2026 Union budget, where the honorable finance minister emphasized the need for expansion of the fast-track to simplify the complex corporate process. This amendment was subsequently notified on 4 September 2025. Now, this applies and extends beyond small companies and startups to include unlisted companies, holding and subsidiary companies, fellow subsidiaries under the same holding company, and foreign companies with an Indian wholly owned subsidiary.

COMPARATIVE ANALYSIS:

India and UK:

The Reserve Bank of India, guided by the Companies Act 2013, is responsible for cross-border regulations. RBI is responsible for regulating foreign exchange, and companies act in dealing with mergers and acquisitions of companies. In the UK, this is monitored by the Financial Conduct Authority and the Takeover Panel. FCA is responsible for regulating and governing companies, and the takeover panel is responsible for mergers and acquisitions¹⁶. In India, the approval will be given by the National Company Law Tribunal, and the RBI is responsible for some matters relating to foreign exchange, is any be needed in case of a merger and acquisition. In the UK, it is done by the FCA itself. In India Income Tax Act 1961 regulates the tax payment for cross-border dealings¹⁷. In the UK, it is governed by His Majesty's Revenue and Customs.

India and USA:

In India, the fast-track mergers are governed by the Companies Act of 2013. In the USA, it is called a short-form merger, and it is governed by state laws and corporate governance documents¹⁸. In India, the procedure of merger should start from the approval of the board of directors, and then the relevant document will be submitted to the Registrar of Companies. He has the power to cancel permission as well as grant it. In the USA, the approval of the board members of both the parent

¹⁵ Ministry of Corporate Affairs, Proposed Amendment to the Companies (Compromise, Arrangement and Amalgamation) Rules, 2016 (Apr. 5, 2025), <https://www.mca.gov.in/>.

¹⁶ Financial Conduct Authority, About the FCA, <https://www.fca.org.uk/about/the-fca>; The Takeover Panel, About the Panel, <https://www.thetakeoverpanel.org.uk/about-the-panel> (last visited Nov. 7, 2025).

¹⁷ The Income Tax Act, 1961, No. 43, Acts of Parliament, 1961 (India); His Majesty's Revenue & Customs, What We Do, <https://www.gov.uk/government/organisations/hm-revenue-customs/about>

¹⁸ See, e.g., Del. Code Ann. tit. 8, § 253 (2024) (governing short-form mergers in Delaware); Model Bus. Corp. Act § 11.05 (Am. Bar Ass'n 2016) (providing a model provision for short-form mergers).

and its subsidiary company is enough. In India, shareholders should take a special resolution in favor of the merger or acquisition. But in the USA, it is not mandatory. In India, this process will be completed within 6 to 9 months. But in the USA, the time limit depends on the circumstances and procedure of the state.

KEY INSIGHTS FROM RELATED RESEARCH:

Efficiency Gains are Variable: The extent of efficiency gains is not guaranteed and can differ widely. Some studies find significant increases in profitability and productivity, while others observe declines in performance after a merger.

Measurement Metrics: Efficiency is often measured using various financial and operational metrics, including profitability (e.g., profit before tax, profit after tax), debt-equity ratios, productivity levels, and market performance (e.g., stock returns).

Sources of Gains (Synergies): Mergers aim to generate value through synergies, such as economies of scale, reduced duplication of effort, shared resources, cost savings, and improved market share.

"Fast-Track" Mergers: The term "fast-track merger" generally refers to a simplified legal/regulatory process (e.g., under India's Companies Act, 2013, Section 233) designed to be quicker, less costly, and less burdensome than traditional routes. The procedural efficiency gains in terms of time and cost are clear for these types of mergers.

EMPIRICAL FINDINGS ON PERFORMANCE:

Profitability: Some empirical studies in specific sectors (e.g., the Indian financial sector) show an increase in profit-related metrics for most merged companies.

Long-term vs. Short-term: One study found that acquiring firms saw significant increases in profitability in the long run (e.g., 5 years) after a merger.

Industry Differences: Acquiring firms in the service industry were found to perform better than those in manufacturing in some analyses.

CRITICAL EVALUATION:

The latest amendment in fast-track mergers and amalgamations under Section 233 brings advantages like reducing the procedural timings, unlike the NCLT procedures, which take more time. This amendment benefits companies, including small companies, intra-group companies, and related-group companies. The main aim is to promote ease of doing business, reduce merging timings, and simplify intra-group restructuring.

However, this amendment is time-consuming, and it raises problems like stakeholder participation, accountability, and legal safeguards. This critical evaluation examines those concerns under the following dimensions: limited awareness and procedural clarity, role of regional director, absence of an appeal mechanism, ambiguity on the treatment of stakeholders, and misuse of this amendment.

1. Limited Awareness and procedural Clarity:

Despite the intent to make the merging more efficient, simple, and effective by removing the long procedures of NCLT, many companies, legal practitioners, and even creditors use the traditional NCLT procedures to merge the company with another company, which delays the approval proceedings. The lack of awareness of the companies leads to wastage of the fast-track method of merging and incorrect use of this method, where the large companies do not go for approval. Some companies might use the traditional method of NCLT procedures to merge the companies in spite of the fact that they are eligible under Section 233 of the Companies Act, while some companies use this latest amendment incorrectly for transactions beyond the scope of this section, which leads to procedural rejections.

Although the latest amendment clarifies some procedures, some aspects, like the sequence and inter-relation between shareholder, creditor, and regulatory approvals, are not consistently interpreted across Regional Directors. The timelines for notifications to sectoral regulators and their feedback mechanisms are unclear. The format for disclosing employee impact and creditor consent is inconsistently applied. These procedural inconsistencies produce uncertainty, particularly for stakeholders trying to assess their rights or contest a scheme. In contrast, NCLT procedures are more structured. When the procedural framework is not clear, the main objective of the amendment is in question.

2. Role Of Regional Director: Administrative or Quasi-Judicial?

Under section 233, the Regional Director is the person who acts on behalf of the Central Government to approve the merger scheme or reject the merger scheme. His role is to examine the filings of the case, should consider the objections submitted by the Registrar of Companies and the Official Liquidator. His main job is to either approve the merger scheme or refer the case to the NCLT if the objections are strong enough to go on appeal. The Regional Director's process is usually based on documents, and it is administrative in a way that the stakeholders, like creditors, minority shareholders, and employees, do not get the right to be heard by the Regional Director, which reduces the participation of stakeholders or making any decision that does not affect them. As the Regional Director's reports depend on the reports or documents submitted by the Registrar of Companies or the Official Liquidator, they lack independent evaluation by the Regional Director, which leads to approval without proper attention or genuine consideration of the stakeholders.

Different Regional Directorates act differently and interpret their powers inconsistently. Some act quasi-judicially in a way that they conduct limited hearings and seek clarifications from the companies and the stakeholders, while others act in an administrative way that they do not conduct any hearings or seek any clarifications. The absence of a clear Quasi-Judicial framework shows that there is neither transparency nor a structured framework.

3. Absence of Defined Appeal Mechanisms:

The notable gap arises under Section 233. The absence of a statutory appeal mechanism against the Regional Director's order is the main gap. If the Regional Director approves a merger scheme in spite of the fact that the stakeholders object to the approval, there are no proper relief schemes for the stakeholders, or they do not get the proper right to be heard by the Regional Director itself. They need to approach the High Court or the NCLT for an appeal, which is neither cost-effective nor efficient for the stakeholders. The absence of the appeal framework shows us that the approval made by the executive is the final which contradicts the fact that the administrative decisions should have a judicial review. This also shows us that there is no further step to take by the stakeholders if their objections are ignored by the Regional Director.

4. Ambiguity on Treatment of Shareholders:

Under the latest amendment process, to approve the merger scheme, 90% of the shareholders and creditors must approve the scheme. But Section 233 does not talk about the rest of the 10% of the stakeholders¹⁹.

In an NCLT-approved merger, the minority stakeholders have the right to seek the valuation adjustments and can also challenge the fairness of their option or objection. While under section 233, there are no explicit rights for the minority shareholders to exit the merger or to demand a fair value. This becomes a great advantage for the minority adjustments. Given that most fast-track mergers occur within group companies or related parties, the minority shareholders may feel pressurized to approve the scheme that is approved by the majority of the shareholders' decision due to their lack of majority. Without tribunal oversight, the coercion and suppression of minority shareholders by the majority cannot be easily examined.

5. Possible Misusage:

Due to the latest amendment of the fast-track merging, there arises a potential misuse of the amendment, especially in related-party mergers or intra-group mergers.

- a) **Related-Party Mergers:** Large-sized companies with several unlisted companies may now merge the companies under Section 233 without undergoing the transparent NCLT process. But due to this, there arise opportunities for asset transfers between related or connected parties at prices that are not market-based, possibly undervalued or overvalued, debt adjustments that favour certain entities, and share dilution affecting minority shareholders in subsidiaries.
- b) **Regulatory Arbitrage:** By choosing the fast-track method of merging, the companies bypass the NCLT scrutiny, which is transparent, including hearings, valuation challenges, and public notices. This tends to weaken employee and creditor participation. In practice, even if the Regional Director or the Registrar of Companies finds something that detects irregularities, they cannot do anything as they do not have the investigative capacity to identify intra-group manipulations.

¹⁹ See *Supra* Note 8

6. Evaluating the Efficiency-Accountability Trade Off:

The legislative intent behind Section 233²⁰ and its recent amendment to enhance efficiency, which focuses on reducing the merger timings from several months to a few weeks, cuts costs and reduces the NCLT's case hearing burden. But efficiency in corporate law should not come at the cost of procedural fairness and accountability.

- a) **Gains in Efficiency:** The new amendment in fast-track mergers avoids formal hearings, which leads to faster approvals and reduces the delays in approvals. It reduces the litigation backlogs, reducing the cases for the NCLT and reducing the burden of cases. For genuine intra-group reorganizations with no creditor or shareholder conflict, it provides a proportionate compliance framework.
- b) **Losses in Accountability:** The removal of the Tribunal removes transparency, as proceedings and decisions are not made public, unlike NCLT proceedings. Minority Stakeholder participation becomes careless as their opinions or objections will not be taken, limited to written consents rather than deliberative hearings. Conflict of interest risks increase where common directors or related parties dominate both sides of the merger.
- c) **The Need for Balance:** The success of this amendment lies only when procedural efficiency with substantive accountability is achieved. This amendment achieves only procedural efficiency but not substantive accountability. This can be achieved when there are **post approval audit mechanisms, enhanced disclosure requirements or limited appeal rights** for the aggrieved stakeholders.

CONCLUSION

Section 233 was introduced to reduce the timings for merging and simplify the process for small companies. It reduced regulatory delays and encouraged merging the business with ease. The fast-track method of merging aims to strike a balance between administrative efficiency and stakeholder protection by introducing the Regional Director and transforming some functions of the NCLT to the Regional Director.

²⁰ See *Supra Note 8*

But the practicality of this amendment is complex. Even though this amendment has reduced the procedural timing, it has problems like a lack of awareness, a lack of uniform procedural clarity, and ambiguity in dealing with minority shareholders. The Regional Director's role has been made fully administrative, leaving the role of quasi-judicial authority that is provided by the NCLT procedures. Moreover, the absence of appeal mechanisms under Section 233 has been a major setback for the aggrieved shareholders, by not given them their right to appeal. This gap raises concerns for the due process of law when a conflict arises between the parties. This raises a risk of misuse of this fast-track merging method and bypassing the NCLT procedures. This expansion has also raised the concern for the need for stronger safeguards which ensures that ensure efficiency does not come at the cost of accountability.

There is a need for balance between speed and supervision, and a proper framework of duties for the Regional Director. For fast-track mechanisms to succeed, they need a trust-building framework that involves both efficiency and stakeholder protection.

Therefore, Section 233 enhances efficiency and its sustainability as a reform depends on ensuring that regulatory convenience does not come at a cost of corporate accountability or stakeholder rights, which are the very principles of the Companies Act,2013.