Indian Mergers and Acquisitions: Environmental Analysis in Current Competitive Business Environment

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Abstract

Since the advent of globalization and new economic policies where in government has become liberal in terms of economic activities, this leads to privatization, commercialization, modernization and paving way for rational and optimal use of resources. In order to meet the above the companies have adopted economic appraisal, financial appraisal, project appraisal, leads to merger and acquisitions. Merger is the combination of two companies into a larger company, commonly voluntary and involves stock swap and cash payment to the target. Acquisition is the buying of one company by another, usually a smaller company by a larger one.

The trends of mergers and acquisitions in India have changed over the year since economic reforms 1991 inspired by liberalization, privatization and globalization. Favourable government policies, buoyancy in economy, dynamic attitude of Indian entrepreneurs like achieving synergies, to get good market share, cross selling, economies of scale, resource transferring and reducing tax liability are key factors behind the changing trends of mergers and acquisitions. Acquisitions of foreign companies by the Indian businesses have been the latest trend in the Indian corporate sector. With the increasing numbers of Indian companies opting for mergers and acquisitions that generates efficiency, productivity, cost saving, etc. India is now one of the leading nations in the world in terms of mergers and acquisitions.

Different sectors like telecom, finance, FMCG, construction material, automobile industry and steel industry have resorted to mergers and acquisitions in recent times.

The paper will examines the emerging trends of various companies based on published data. The paper would also reveal trends, progress, successful implementation, reasons of failure and legal framework relating to mergers and acquisitions.

Keywords: Mergers, Acquisitions, Takeovers, Global Competitiveness, Types, Trend and Strategies, Motives and Legal Framework.

Introduction

The dawn of globalization and new economic policies leads to privatization, commercialization, and modernization. The government has become liberal in terms of economic activities, this and paving way for rational and optimal use of resources. To meet the above mentioned goals the companies have adopted economic appraisal, financial appraisal, project appraisal, leads to merger and acquisitions.

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The key factors behind the changing trends of mergers and acquisitions are favourable government policies, buoyancy in economy, dynamic attitude of Indian entrepreneurs like achieving synergies, to get good market share, cross selling, economies of scale, resource transferring and reducing tax liability. The latest trend in the Indian corporate sector is that Indian businesses are acquiring foreign companies. With the increasing numbers of Indian companies opting for mergers and acquisitions that generates efficiency, productivity, cost saving, etc. India is now one of the leading nations in the world in terms of mergers and acquisitions.

The process of Mergers and Acquisitions has gained substantial importance in today's corporate world. The increased competition in the global market has promoted the companies to go for mergers and acquisitions as an important strategic choice. These are used as tools for business expansion and restructuring. Enterprises always have innate desire to acquire monopoly position or substantial market power, even for a brief period. On the more positive side, mergers and acquisitions may be critical to the healthy expansion of business firms as they evolve through successive stages of growth and developments. Both internal and external growth may be complementary in the long – range evolution of firms. Successful entry into new product markets and into new geographical markets by a firm may require mergers and acquisitions at some stage in the firm's development. Successful competition in international markets may depend upon capabilities obtained in a timely and efficient fashion through mergers and acquisitions. One reason why merger activity is concentrated in the business of high business activity may be that firms are not motivated to make large investment outlays when business prospectuses are not favourable. Only when future benefits accruing to a business endeavor exceeds its costs is the action warranted. When such favourable business prospectus are joined with changes in competitive conditions directly motivating a new business strategy, mergers and acquisitions activities will be stimulated.

India is witnessing merger and acquisition in almost every field viz. telecom, FMCG finance, automobile and metal industries.

Conceptual Framework

Mergers and Acquisitions

The expression mergers and acquisitions indicates the corporate policy of handling the purchasing and selling and merging of different entities that can financially support the developing entity to expand rapidly without forming another industrial entity.

Definition of Merger

Merger is the combination of two companies into a larger company. Such actions are commonly voluntary and involve stock swap and cash payment to the target.

It is commonly seen that very few mergers have been successful in appending to the share worth of the acquiring firm. Instead, they endorse monopolistic attitude by trimming down the prices, taxes, etc. which can work against the public interests.

Definition of Acquisition

Acquisition usually refers to a purchase of a smaller firm by a larger one. An acquisition may be friendly or hostile. Generally, acquisition refers to the buyout of a smaller business identity by a bigger one, but sometimes even a smaller business identity can takeover the administration control of a bigger and well established firm, usually referred to as a reverse takeover.

Difference between Merger and Acquisition

Though the two words mergers and acquisitions are often spoken in the same breath and are also used in such a way as if they are synonymous, however, there are certain differences between mergers and acquisitions.

Causes of Mergers and Acquisitions

There are a number of reasons that mergers and acquisitions occur. These issues generally relate to

Merger	Acquisition
The case when two companies (often of same size) decide to move forward as a single new company instead of operating business separately.	The case when one company takes over another and establishes itself as the new owner of the business.
The stocks of both the companies are surrendered, while new stocks are issued afresh.	The buyer company "swallows" the business of the target company, which ceases to exist.
For example, Glaxo Wellcome and SmithKline Beehcam ceased to exist and merged to become a new company, known as Glaxo SmithKline.	Dr. Reddy's Labs acquired Betapharm through an agreement amounting $597 million.

business concerns such as competition, efficiency, marketing, product, resource, and tax issues. Let us begin our exploration of why corporate combinations occur.

1. Economies of Scale: -This generally refers to a method in which the average cost per unit is decreased through increased production, since fixed costs are shared over an increased number of goods. In a layman's language, more the products, more is the bargaining power.

2. Increased Revenue /Increased Market Share: - This motive assumes that the company will be absorbing the major competitor and thus increase its power by capturing increased market share to set prices.

3. Cross Selling: - When one manufacturer acquires and sells complimentary products is referred as cross selling. Eg: a bank buying a stock broker could then sell its banking products to the stock brokers customers, while the broker can sign up the bank' customers for brokerage account.

4. Corporate Synergy: - Better use of complimentary resources. It may take the form of revenue enhancement (to generate more revenue than its two predecessor standalone companies would be able to generate) and cost savings (to reduce or eliminate expenses associated with running a business).

5. Taxes:- A profitable can buy a loss maker to use the target's tax right off i.e. wherein a sick company is bought by giants.

6. Geographical or Other Diversification:- This is designed to smooth the earning results of a company, which over the long term smoothens the stock price of the company giving conservative investors more confidence in investing in the company. However, this does not always deliver value to shareholders.

7. Resource Transfer:- Resources are unevenly distributed across firms and interaction of target and acquiring firm resources can create value through either overcoming information asymmetry or by combining scarce resources. Eg: laying off employees, reducing taxes etc.

8. Improved Market Reach and Industry Visibility:- A merger may expand two companies' marketing and distribution, giving them new sales opportunities. A merger can also improve a company's standing in the investment community.

Impact of Mergers and Acquisitions

Mergers and acquisitions bring a number of varying changes within the organization. The size of the organizations, its stocks, shares and even the ownership also change.

Impacts on Employees: Mergers and acquisitions may have great economic impact on the employees of the organization. There could always be the possibility of layoffs after any merger or acquisition. Besides, those who are working would also see some changes in the corporate culture leading to emotional and physical problems.

Impact on Management: Due to corporate culture clash the percentage of job loss may be higher in the management level than the general employees.

Impact on Shareholders: Impact of mergers and acquisitions also include some economic impact on the shareholders. If it is a purchase, the shareholders of the acquired company get highly benefited from the acquisition as the acquiring company pays a hefty amount for the acquisition. On the other hand, the shareholders of the acquiring company suffer some losses after the acquisition due to the acquisition premium and augmented debt load.

Impact on Competition: Mergers and acquisitions have different impact as far as market competitions are concerned. For example, the competition in the financial services industry is relatively constant. On the other hand, change of powers can also be observed among the market players.

Objectives

The broad objective of this paper is to understand recent trends of Indian Mergers and Acquisitions in current Competitive Business Environment

The other objective includes the study of progress of mergers & acquisitions, identifying the reasons behind the failure and the hurdles faced due to legal framework in the current scenario.

Shortlisting the target

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Zeroing in on the target

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Sending feelers through an intermediary

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Due Diligence

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Valuations

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Negotiating on the value and other aspects of business

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Raising money to fund the deal

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Discussion on payment schedule

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Finalizing the terms of the deal

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Signing of the agreement

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Closing the deal

Fig. 1: Merger & Acquisition Deal Process

Methodology

The study is based on secondary (published) data. The data from various published sources has been collected to get the insight for the study.

Mergers and Acquisitions and India

Until up to a couple of years back, the news that Indian companies having acquired American-European entities was very rare. However, this scenario has taken a sudden U turn. Nowadays, news of Indian Companies acquiring foreign businesses is more common than other way round.

The Indian IT and ITES companies already have a strong presence in foreign markets; however, other sectors are also now growing rapidly. The increasing engagement of the Indian companies in the world markets, and particularly in the US, is not only an indication of the maturity reached by Indian Industry but also the extent of their participation in the overall globalization process.

If you calculate top 10 deals it self account for nearly US $ 21,500 million. This is more than double the amount involved in US companies' acquisition of Indian counterparts.

Table 1: Ten Acquisitions Made by Indian Companies Worldwide

Acquirer Company	Target Company	Country Targeted	Deal value ($ m)	Industry
Tata Steel	Corus Group plc	UK	12,000	Steel
Hindalco	Novelis	Canada	5,982	Steel
Videocon	Daewoo Electronics Corp.	Korea	729	Electronics
Dr. Reddy's Labs	Betapharm	Germany	597	Pharmaceutical
Suzlon Energy	Hansen Group	Belgium	565	Energy
HPCL	Kenya Petroleum Refinery Ltd.	Kenya	500	Oil and Gas
Ranbaxy Labs	Terapia SA	Romania	324	Pharmaceutical
Tata Steel	Natsteel	Singapore	293	Steel
Videocon	Thomson SA	France	290	Electronics
VSNL	Teleglobe	Canada	239	Telecom

Source: http://ibef.org

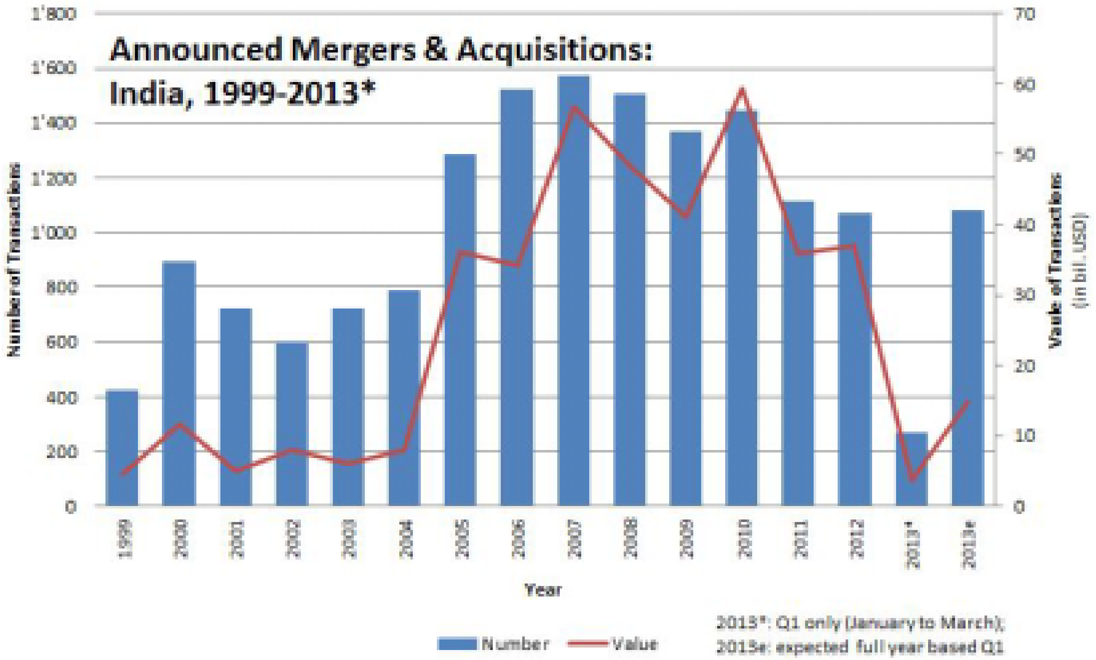

Fig. 2: Indian Outbound Deals Since 2000

Source: http://ibef.org

Indian outbound deals, which were valued at US$ 12 billion in 2000-01, increased to US$ 32 billion in 2005, and further crossed US$ 52 billion-mark in 2007. In fact, 2007 will be remembered in India's corporate history as a year when Indian companies covered a lot of new ground. They went shopping across the globe and acquired a number of strategically significant companies. This comprised 60 per cent of the total mergers and acquisitions activity in India in 2007. And almost 99 per cent of acquisitions were made with cash payments.

Merger and acquisition activity in the country in the first month of 2013 as deals worth nearly $15 billion (about Rs. 91,000crores) were announced amid improved signs of liquidity.

According to the monthly deal report of VCEdge, a financial research provider, the mergers and acquisitions deal value during January 2013 stood at \$2.8 billion, a whopping 126% rise over the same period last year.

In terms of deal count there was also an upward trend, as there were around 53 deals in the first month of the year, as compared to 32 deals witnessed during a year-ago period, the report added.

Domestic deals were in fervour during January 2013, as there were as many as 29 domestic deals worth \$2,303 million as compared to 14 transactions worth \$589 million in January 2009.

Meanwhile, the number of outbound deals more than doubled from 6 in January 2009 to 13 in January 2013. Besides, the average deals size also grew to \$111.30 million in the first month of 2013 from \$84.28 million, the report said.

A sector wise analysis shows that telecom, logistics and banking, finance and insurance were the most targeted sectors for investments with deals worth \$2,180 million, \$164 million and \$117 million respectively.

The largest deal was GTL Infrastructure's acquisition of the telecom tower assets of Aircel Ltd for Rs. 400 crores through a Special Purpose Vehicle. The deal makes GTL Infra the world's largest independent telecom tower firm and will give the company an additional 17,500 telecom towers taking its total portfolio to 32,500.Besides, the GTL-Aircel deal, some of the other major mergers and acquisitions deals include — Telenor's third and penultimate round of investment of \$326 million in Unitech Wireless Ltd for 11.1% stake and SHV Energy which acquired Chennai-based Caltex Gas India for \$109 million from Chevron Corp.

The top 5 mergers and acquisitions deals accounted for more than 85% of the total mergers and acquisitions deal in January 2013. In January 2009, top 5 deals accounted for more than 98% of total value for the month.

Amongst BRIC Nations, India Second Most Targeted Country for Mergers & Acquisitions

After a subdued 2009, the mergers and acquisitions deals seem to be picking up steam in 2013. India had great 2007 and 2008 when it came to Mergers & Acquisitions, however, 2009 recession saw drastic fall in cross border mergers and acquisitions deals.

According to report published by Dealogic, India has emerged as the second most targeted nation among the BRIC region, after China. India has already mopped up mergers and acquisitions deals worth \$2.8 billion so far this year alone.

While the India-targeted mergers and acquisitions deals so far in 2013 grew by 43 per cent from \$1.98 billion in the year-ago period, China targeted volume rose 88 per cent to \$8.3 billion.

So far in 2013, the BRIC targeted mergers and acquisitions volume has reached \$12.7 billion, up 42 per cent compared with 2009 year-to-date (YTD). The BRIC mergers and acquisitions volume accounts for 10 per cent of global mergers and acquisitions volume in 2013 YTD. The top five BRIC deals in 2013 YTD involve Chinese and Indian targets and account for 47 per cent of the total BRIC volume.

2010 was the Year of Acquisitions for India

2010 has already started with a bang, with news of mergers and acquisitions deals coming out thick and fast. In just 45-days of 2010 India Inc has announced deals worth \$14 billion, while in the whole of year 2009, India Inc. made deals worth a modest \$11.9 billion. Even the Deallogic survey in January pointed that India is the second most targeted country when it came to cross border Mergers & Acquisitions. Mergers and acquisitions values gathered momentum and registered a sharp increase in March, primarily in the wake of Bharti Airtel's acquisition of Zain Africa. A total of 86 deals were registered during the month, surpassed the number struck in both 2009 (67) and 2008 (33).

The total value of deals touched \$13.83 billion, which was higher than \$2.57 billion and \$4.83 billion registered in corresponding month of 2009 and 2008 respectively. The value of outbound deals was pegged at $12.3 billion, significantly higher than the value registered in March 2008 and 2009.

Total value of domestic deals in March was $544 million (42 deals) as against $1.9 billion (12 deals) and $217 million (13 deals) clocked during corresponding period in 2009 and 2008 respectively.

Besides Bharti Airtel, the other top deals included Fortis Healthcare's acquisition of Parkway Holdings for $685 million, and Essar Minerals buying Trinity Coal Corporation at $600 million.

While private equity investments have grown over the same period during the previous year, investors are still taking a cautious investment approach as compared to 2008 and earlier.

There was also considerable activity in raising capital through public issues, with five initial public offerings listed during the month, raising $281 million.

We will see lot of mergers and acquisitions activity this year in the TMT (Technology, Media & Telecom) sector.

This situation will help Indian companies to go shopping abroad and find cheaper deals.

Mergers and Acquisitions Laws in India

Most of the mergers and acquisitions have been successful in elevating the functional competence of companies but on the flip side this activity can lead to formation of monopolistic power. The anti-competitive results are accomplished either by synchronized effects or by one-sided effects.

Many countries have propagated Mergers and Acquisitions Laws to control the operations of the trade units within.

Laws Governing Mergers and Acquisitions in India

Mergers and Acquisitions in India are governed by the Indian Companies Act, 1956, under Sections 391 to 394. Although mergers and acquisitions may be instigated through mutual agreements between the two firms, the procedure remains chiefly court driven. The approval of the High Court is highly desirable for the commencement of any such process and the proposal for any merger or acquisition should be sanctioned by a 3/4th of the shareholders or creditors present at the General Board Meetings of the concerned firm.

Indian antagonism law permits the utmost time period of 210 days for the companies for going ahead with the process of merger or acquisition. The allotted time period is clearly different from the minimum obligatory stay period for claimants. According to the law, the obligatory time frame for claimants can either be 210 days commencing from the filing of the notice or acknowledgment of the Commission's order.

The entry limits for companies: The entry limits are allocated in context of asset worth or in context of the company's annual incomes. The entry limits in India are higher than the European Union and are twofold as compared to the United Kingdom.

The Indian mergers and acquisitions laws also permit the combination of any Indian firm with its international counterparts, providing the cross-border firm has its set up in India.

There have been recent modifications in the Competition Act, 2002. It has replaced the voluntary announcement system with a mandatory one. Out of 106 nations which have formulated competition laws, only 9 are acclaimed with a voluntary announcement system. Voluntary announcement systems are often correlated with business ambiguities and if the companies are identified for practicing monopoly after merging, the law strictly order them opt for de-merging of the business identity.

Reasons of Mergers Failure in India

Statistics show that roughly half of acquisitions are not successful. Mergers and acquisitions fail quite often and fail to create value or wealth for shareholders of the acquirers. Some of the important reasons for failures of mergers are:

1. Excessive Premium: In a competitive bidding situation, a company may tend to pay more. Highest bidder often overestimates value out of ignorance. When the acquirer fails to achieve the synergies required compensating the price, the mergers and acquisitions fails.

2. Size Issues: Many acquisitions fail either because of 'acquisition indigestion' through buying too big targets or failed to give the smaller acquisitions the time and attention it required.

3. Diversification: Unrelated diversification has been associated with lower financial performance, lower capital productivity and a higher degree of variance in performance for a variety of reasons including a lack of industry or geographic knowledge, a lack of focus as well as perceived inability to gain meaningful synergies. Unrelated acquisitions, which may appear to be very promising, may turn out to be big disappointment in reality.

4. Poor Cultural Fits: Cultural fit between an acquirer and a target is one of the most neglected areas of analysis prior to the closing of a deal. It is useful to know the target management behavior with respect to dimensions such as centralized versus decentralized decision making, speed in decision making, time horizon for decisions, level of team work, management of conflict, risk orientation, openness to change, etc.

5. Poor Organization Fit: Organizational fit is described as "the match between administrative practices, cultural practices and personnel characteristics of the target and acquirer". Mismatch of organization fit leads to failure of mergers.

6. Poor Strategic Fit: Many a time, lack of strategic fit between two merging companies especially lack of synergies results in merger failure.

7. Striving for Bigness: There is a strong tendency among managers whose compensation is significantly influenced by size to build big empires. Size maximizing firms may engage in activities, which have negative net present value.

8. Faulty Evaluation: At times acquirers do not carry out the detailed diligence of the target company. They make a wrong assessment of the benefits from the acquisition and land up paying a higher price.

9. Failure to Set the Pace for Integration: The important task in the merger is to integrate the target with acquiring company in every respect. All functions such as marketing, commercial; finance, production, design and personnel should be put in place. Delay in integration leads to delay in product shipment, development and slow down in the company's road map.

10. Incomplete and Inadequate Due Diligence: Lack of due diligence is lack of detailed analysis of all important features like finance, management, capability, physical assets as well as intangible assets results in failure.

11. Ego Clash: Ego clash between the top management and subsequently lack of coordination may lead to collapse of company after merger. Manufacturing plants can be integrated easily, human beings cannot. Merger of equals may also create ego clash.

12. Failure of Top Management to Follow-Up: After signing the mergers and acquisitions agreement the top management should not sit back and let things happen. First 100 days after the takeover determine the speed with which the process of tackling the problems can be achieved.

13. Lack of Proper Communication: Lack of proper communication after the announcement of mergers and acquisitions will create lot of uncertainties Failure to manage communication results in inaccurate perceptions, lost trust in management, morale and productivity problems, safety problems, poor customer service, and defection of key people and customers. It may lead to the loss of the support of key stakeholders at a time when that support is needed the most.

Conclusion

It is very tempting for a business leader to venture for merger or acquisition of other company. But is must be understood that it is a very complex task. Hence any such move must be planned & executed with great care.

Pitfalls of mergers and acquisitions challenge today's leaders to a new standard of managing change. The strategy is clear - accelerate, concentrate, adapt, and in the case of international mergers and acquisitions, consider cultural differences.

The Asian overall mergers and acquisitions market shows 3878 deals worth US $ 198.60 billion as on July 14, 2008. In the Asian market India is in the 3rd place after China and Hong-Kong with 487 merger and acquisition deals worth $ 22.69 billion.

In conclusion we can say that the acquisition deals are good but we have to think about nation's prestige and the national economy. One size doesn't fit all. Many companies find that the best way to get ahead is to expand ownership boundaries through mergers and acquisitions. For others, separating the public ownership of a subsidiary or business segment offers more advantages. At least in theory, mergers create synergies and economies of scale, expanding operations and cutting costs. Investors can take comfort in the idea that a merger will deliver enhanced market power. By contrast, de-merged companies often enjoy improved operating performance thanks to redesigned management incentives. Additional capital can fund growth organically or through acquisition. Meanwhile, investors benefit from the improved information flow from de-merged companies.

Mergers and acquisitions come in all shapes and sizes, and investors need to consider the complex issues involved in Mergers and acquisitions. The most beneficial form of equity structure involves a complete analysis of the costs and benefits associated with the deals.

References

1. Banerjee Gargi (Oct, 2005), "How Much Value is Created by M&A Deals in India?" Business World, 40.
2. Ghosh P.K. (2006), "Strategic Planning and Management", Tenth Edition, Sultan Chand & Sons., Delhi, 248-250.
3. Machhi Hetal (Oct, 2005), "Merger and Acquisition," *The Management Accountant,* 767-770.
4. Pawaslar, Vardhana (2001), "Effects of Mergers on Corporate Performance in India," *Vikalpa,* 26(1), 19-32.
5. Weston Fred J., Chung & Hoag (2000), "Mergers, Restructuring and Corporate Control", Fifth Edition, Prentice-Hall of India Private Limited, New Delhi, 1-15.
6. Business India (2005), "Biggest Deal?" Business India, 162-163.
7. Maitra Dilip (1996), "Mega Money Mergers," Business Today, 82-93.
8. Rupali Mukherjee (2013), "M&As Gather Pace, Value Shoots up in March", TNN, The Times of India.
9. www.competition-commission-india.nic.in, accessed on 9th April 2013 on 9:45 pm.
10. www.companylawonline.com, accessed on 8th April 2013 on 7:55 pm.
11. www.economywatch.com, accessed on 20th March 2013 on 11:42 am.
12. http://ibef.org, accessed on 8th April 2013 on 7:47 pm.
13. www.indianmba.com, accessed on 8th April 2013 on 10:47 am.
14. http://www.livemint.com/2013/02/08163322/MampA-activity-in-India-more.html, accessed on 10th April, 2013, 2:53 pm.
15. http://trak.in/tags/business/2007/08/16/indian-mergers-acquisitions-changing-indian-business, accessed on 10th April 2013 on 12:35 pm.
16. www.wikipedia.org/wiki/mergers_and_acquisitions, accessed on 8th April 2013 on 10:47 am.