

Valuation Of Intangible Assets in Mergers and Acquisitions: Legal Uncertainty and Regulatory Overlaps in India's Intellectual Property and Corporate Valuation Regime

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ABSTRACT

Intangible assets -goodwill, patents, trademarks, copyrights, software and customer relationships -now constitute a disproportionately large share of enterprise value in Indian mergers and acquisitions (M&A), yet the legal and regulatory architecture that governs their valuation remains fragmented across at least five semi-autonomous normative orders: Indian Accounting Standards (Ind AS 38, Ind AS 103 and Ind AS 113), the professional valuation standards of the Institute of Chartered Accountants of India (ICAI) and the registered-valuer regime of the Insolvency and Bankruptcy Board of India (IBBI), the statutory scheme for mergers and amalgamations under the Companies Act, 2013, the disclosure-oriented regulations of the Securities and Exchange Board of India (SEBI), and the anti-avoidance valuation rules of the Income Tax Act, 1961.¹ Each of these regimes defines “value” differently, prescribes or tolerates different methodologies, and is enforced by a different institution, with no statutory rule of precedence to resolve conflicts between them. This paper undertakes a doctrinal, evaluative and comparative examination of that architecture. It maps the principal instruments governing intangible-asset (IA) valuation in Indian M&A, identifies the specific points at which legal uncertainty and regulatory overlap arise, and evaluates - against the criteria of consistency, predictability and methodological coherence -whether existing valuation standards and judicial guidance are adequate to resolve the disputes that this fragmentation generates. Drawing on doctrinal analysis of the governing statutes and standards, selected judicial and tribunal decisions,² and a comparative assessment against the International Financial Reporting Standards (IFRS), the International Valuation Standards (IVS) and World Intellectual Property Organization (WIPO) guidance, the paper argues that the uncertainty besetting IA valuation in India is not an incidental by-product of the inherent difficulty of valuing non-physical assets, but a structural consequence of regulatory multiplicity operating without a coordinating hierarchy. The paper finds that this structural deficiency operates along three axes -normative clarity, institutional coordination and adjudicatory consistency -and that none of the existing correctives (soft-law valuation standards, disclosure-based securities regulation, or case-by-case judicial deference to expert evidence) is capable of resolving it without statutory intervention. The paper concludes with a set of legal, regulatory, judicial and professional-practice reforms designed to convert India's fragmented, soft-law-dependent valuation landscape into a coordinated ecosystem capable of delivering predictable, methodologically defensible and litigation-resistant valuation outcomes in M&A transactions.

Keywords: Intangible assets; mergers and acquisitions; Ind AS 38; IFRS 3; goodwill; fair value; ICAI Valuation Standards; IBBI registered valuers; Companies Act, 2013; SEBI; transfer pricing; NCLT; regulatory overlap; legal uncertainty; India.

¹ Income Tax Act, No. 43 of 1961, Acts of Parliament, 1961 (India), s. 56(2)(x).

² CIT v. B.C. Srinivasa Setty, (1981) 2 S.C.C. 460 (India).

1. INTRODUCTION

1.1 Background

Intangible assets have moved from the periphery to the centre of enterprise valuation. In a knowledge-based and increasingly digital economy, a growing share of the value transferred in a merger or acquisition consists not of land, plant or inventory but of patents, trademarks, copyrights, proprietary software, customer relationships, brand equity and the residual value recognised as goodwill. Because these assets have no physical form, no readily observable market price in most cases, and future economic benefits that must be estimated rather than observed, their valuation is inherently more contestable than the valuation of tangible property. This contestability would matter little if it were confined to a single, self-contained field of practice. In India, however, the valuation of intangible assets (IAs) in mergers and acquisitions (M&A) sits at the intersection of at least five distinct regulatory and adjudicatory regimes -financial accounting, professional valuation practice, corporate law, securities regulation and taxation -each of which approaches the same underlying question, “what is this asset worth”, from a different institutional vantage point and for a different regulatory purpose.

The valuation of intangible assets performs several distinct legal and economic functions in an M&A transaction. First, it determines the purchase price allocation that follows a business combination, requiring the acquirer to attribute the total consideration paid across identifiable tangible assets, identifiable intangible assets and residual goodwill in accordance with applicable accounting principles. Second, it has direct tax consequences: both the acquirer and the target may be exposed to capital gains tax, withholding obligations, or transfer-pricing adjustments depending on how intangibles are valued and how depreciation or amortisation schedules are constructed. Third, once the transaction has closed, the valuation adopted at the acquisition date becomes the baseline against which subsequent impairment testing is conducted, so that an inflated initial valuation can translate into write-downs and disclosure obligations in later reporting periods. Fourth, because goodwill often represents a very substantial proportion of the total consideration in intangible-intensive deals, the valuation exercise is closely tied to investor confidence and to the disclosure obligations imposed under securities law. Finally, valuation informs a range of strategic and contractual features of the transaction itself, including control premiums, earn-out structures and the warranties and indemnities negotiated between the parties.

1.2 The Regulatory and Accounting Environment

India’s legal and regulatory architecture for IA valuation is layered rather than unified. Indian Accounting Standard (Ind AS) 38 supplies the principal accounting definition of an intangible asset³ -an identifiable, non-monetary asset without physical substance, controlled by the entity, from which future economic benefits are expected to flow -and prescribes the criteria for recognition, the choice between the cost and revaluation models, and the rules governing amortisation and impairment. Ind AS 103, aligned with International Financial Reporting

³ Indian Accounting Standard (Ind AS) 38, Intangible Assets, notified under the Companies (Indian Accounting Standards) Rules, 2015.

Standard (IFRS) 3 on Business Combinations,⁴ governs the accounting treatment of intangibles acquired in a business combination, requiring the acquirer to identify and measure at fair value all identifiable assets and liabilities as of the acquisition date, with goodwill recognised as the residual excess of consideration transferred over net identifiable assets acquired. Ind AS 113 supplies a common fair-value measurement framework across these standards, built on a three-level hierarchy of inputs that runs from observable market

prices (Level 1) to unobservable, entity-specific assumptions (Level 3) -a hierarchy into which most intangible-asset valuations, for want of an active market, inevitably fall at the least reliable end.

Alongside this accounting framework sits a body of professional guidance issued by the Institute of Chartered Accountants of India (ICAI), principally the ICAI Valuation Standards, 2018,⁵ and the accompanying Technical Guide on Valuation, which set out the income, market and cost approaches to valuation and the specialised techniques -discounted cash flow analysis, the multi-period excess earnings method, and relief-from-royalty analysis - commonly applied to intangible assets. These standards are professionally authoritative but not statutorily binding, a distinction that assumes considerable significance in the analysis that follows.

Corporate law adds a further, statutorily mandatory layer. The Companies Act, 2013 requires that valuation in the context of mergers, amalgamations and other schemes of arrangement be conducted by a registered valuer under the Companies (Registered Valuers and Valuation) Rules, 2017,⁶ and be placed before the National Company Law Tribunal (NCLT) for approval. Securities regulation contributes a fourth layer, oriented not towards methodological prescription but towards disclosure: the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the SEBI (Delisting of Equity Shares) Regulations, 2021, the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015⁷ mandate independent valuation reports and fairness opinions in specified transactions, but leave the choice of methodology very largely to the valuer. Finally, taxation law -principally Section 56(2)(x) of the Income Tax Act, 1961, Rule 11UA of the Income Tax Rules, 1962, and the transfer-pricing provisions in Sections 92 to 92F⁸ -imposes its own, more formulaic notion of “fair market value”, designed primarily to prevent under-valuation for tax-avoidance purposes rather than to achieve faithful economic representation.

1.3 The Core Tension: Legal Uncertainty and Regulatory Overlap

The central difficulty explored in this paper is that these five regimes do not merely coexist; they frequently produce divergent answers to what is, in economic substance, the same valuation question. A patent or trademark may be recognised and amortised differently under Ind AS 38 than it would be treated in a scheme approved under the Companies Act; the “fair value” concept that anchors Ind AS 113 is analytically distinct from the “fair market value”

⁴ International Accounting Standards Board, IFRS 3 -Business Combinations (2022); Ind AS 103, Business Combinations.

⁵ Institute of Chartered Accountants of India, ICAI Valuation Standards (2018).

⁶ Companies (Registered Valuers and Valuation) Rules, 2017, made under the Companies Act, No. 18 of 2013, s. 247.

⁷ SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011; SEBI (Delisting of Equity Shares) Regulations, 2021; SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018; SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

⁸ Income Tax Act, No. 43 of 1961, s. 56(2)(x); Income Tax Rules, 1962, r. 11UA; Income Tax Act, 1961, ss. 92–92F.

that Rule 11UA prescribes for tax purposes; and a valuation report that satisfies SEBI’s disclosure requirements in a takeover may nonetheless be challenged, revalued or rejected by the Income Tax Appellate Tribunal (ITAT) in a subsequent transfer-pricing assessment arising out of the very same transaction. Because none of these regimes is subordinated to any other by an explicit statutory rule of precedence, the same intangible asset can, in principle, be valued differently by four or five different regulators or adjudicatory bodies without any single one of them exceeding its jurisdiction.

This paper argues that this multiplicity -rather than the inherent indeterminacy of valuation as a technical exercise -is the primary driver of legal uncertainty in Indian M&A practice involving intangible assets. The argument proceeds in three movements. First, the paper maps the architecture described above in analytical rather than merely descriptive terms, showing precisely where and why the frameworks diverge. Second, it evaluates the adequacy of existing valuation standards and judicial doctrine in resolving the disputes that this divergence produces, using consistency, predictability and methodological coherence as evaluative benchmarks. Third, it places the Indian framework in comparative perspective against IFRS, the International Valuation Standards (IVS) and WIPO guidance on intellectual property valuation, in order to determine whether the deficiencies identified are inherent to valuation as such or are specific to the institutional design choices India has made. The paper concludes that they are substantially the latter, and

proposes a set of legal, regulatory, judicial and professional reforms intended to convert a fragmented, soft-law-dependent system into a coordinated valuation ecosystem.

2. REVIEW OF LITERATURE

The academic and professional literature on IA valuation in M&A can usefully be organised around four bodies of material: (i) international accounting scholarship on the recognition and measurement of intangibles; (ii) professional valuation literature addressing methodology; (iii) Indian corporate-law and securities-law commentary on the statutory valuation regime; and (iv) case-law and empirical commentary on how valuation disputes are actually resolved. **Accounting scholarship on IAS/Ind AS 38 and IFRS 3.** The literature on International Accounting Standard (IAS) 38 and its Indian counterpart, Ind AS 38, consistently identifies three recurring interpretive difficulties: the criteria for recognising an asset as “identifiable”; the estimation of useful life for intangibles without a natural physical limit; and the choice between amortisation and impairment-only models. Scholars such as Lev have argued that the accounting treatment of intangibles systematically understates enterprise value because internally generated intangibles -including internally generated goodwill -are barred from recognition altogether, creating a structural asymmetry between acquired and self-created assets of identical economic character.⁹ Barker’s work on corporate financial reporting develops a related theme: that the fair-value regime introduced by IFRS 3 (and mirrored in Ind AS 103) represents a conceptual departure from the historical-cost, reliability-oriented approach of Ind AS 38, so that the same underlying economic resource may be excluded from the balance sheet in one context (as an internally generated asset) and recognised at fair value in another (as an asset acquired in a business combination).¹⁰ The literature on goodwill specifically identifies its treatment as a residual, rather than an independently measured, quantity as the single greatest source of subjectivity in business-combination accounting, since goodwill absorbs whatever measurement error exists in the valuation of every other identifiable asset in the transaction.

Professional valuation literature. Damodaran’s work on investment valuation, and the methodological literature more generally, identifies three canonical approaches to valuing an intangible asset¹¹ -the income approach (typically discounted cash flow or multi-period excess earnings analysis), the market approach (comparable transactions or relief-from-royalty analysis) and the cost approach (reproduction or replacement cost) -while noting that intangible assets, precisely because they tend to be unique and non-traded, are disproportionately reliant on the income approach and therefore on subjective, forward-looking assumptions about discount rates, growth rates and the useful life of the asset. ICAI’s own Technical Guide on Valuation and Valuation Standards, 2018 mirror this three-approach taxonomy but supply comparatively limited guidance on how a valuer should choose among the approaches, or how discount rates should be benchmarked, when observable market data for the relevant asset class is scarce -a gap that assumes particular significance in the Indian market, where comparable-transaction data for intangible assets is far less developed than in mature capital markets.

Corporate and securities law commentary. Indian corporate-law scholarship, exemplified by Varottil’s work on the regulation of valuers and on fairness opinions,¹² has focused on two

⁹ Baruch Lev, *Intangibles: Management, Measurement, and Reporting* (Brookings Institution Press, 1st edn, 2001).

¹⁰ Richard Barker, *Corporate Financial Reporting: Theory and Practice* (Oxford University Press, 4th edn, 2020).

¹¹ Aswath Damodaran, *Investment Valuation: Tools and Techniques for Determining the Value of Any Asset* (Wiley, 3rd edn, 2012).

¹² Umakanth Varottil, “Regulation of Valuers in India: A Critical Analysis” (2019) 12 *Indian Journal of Corporate Law* 45; Umakanth Varottil, “Fairness Opinions in Mergers and Acquisitions: Regulatory and

related themes. The first is the “soft law” character of ICAI’s valuation standards: because compliance is enforced through professional discipline rather than statutory sanction, courts and tribunals are not bound to apply them, and their influence on adjudication is therefore persuasive rather than determinative. The second is the disparity between the fairness-oriented review conducted by the NCLT under Sections 230–232 of the Companies Act - which examines whether a scheme of arrangement is broadly fair to all classes of stakeholders rather than whether the underlying valuation methodology is technically correct

-and the far more granular, methodology-focused scrutiny that tax tribunals bring to bear on the same category of transaction. Commentary on SEBI's takeover, delisting and disclosure regulations similarly emphasises that these instruments are disclosure-oriented rather than methodologically prescriptive: they require that a valuation be disclosed, and increasingly that it be accompanied by a fairness opinion, but they do not mandate a particular valuation methodology, leaving considerable room for issuers and their advisers to select an approach that produces a preferred pricing outcome.

Case law and empirical commentary. The Supreme Court's early treatment of goodwill in *CIT v. B.C. Srinivasa Setty*¹³ established that goodwill is a capital asset incapable of having a precisely ascertainable cost of acquisition -a proposition that has shaped judicial reluctance to impose rigid valuation methodologies ever since. In *Hindustan Lever Employees' Union v. Hindustan Lever Ltd.*,¹⁴ the Supreme Court reiterated that valuation "is not an exact science" and that different methods may legitimately produce different, equally defensible results, a position echoed in *Miheer H. Mafatlal v. Mafatlal Industries Ltd.*,¹⁵ where the Court held that in reviewing a scheme of amalgamation it would examine only whether the valuation was manifestly unfair or unreasonable, not whether it adopted the objectively "correct" methodology. In the transfer-pricing sphere, *Vodafone International Holdings BV v. Union of India*¹⁶ underscored the importance of economic substance in valuing cross-border transactions involving intangible value, while ITAT decisions such as *ADP India Pvt Ltd v. Deputy Commissioner of Income Tax*¹⁷ illustrate the tribunal's greater willingness to interrogate valuation assumptions and reject methodologies that do not strictly conform to the requirements of Rule 11UA and the transfer-pricing rules. Compilations of judicial pronouncements published by ICAI, together with commentary by scholars such as Mittal and Tandon on transfer-pricing litigation,¹⁸ document a persistently high volume of valuation-related disputes before the ITAT, and a pattern of inconsistent outcomes across constitutional courts (deferential, fairness-oriented) and specialised tribunals (interventionist, methodology-oriented).

2.1 Gaps in the Existing Literature

Three gaps in the literature motivate the present study. First, there is comparatively little harmonised guidance -whether judicial, statutory or professional -on how a conflict between Ind AS/ICAI valuations and statutory or tax valuations of the same asset ought to be resolved when the two diverge. Second, Indian case law offers few, if any, authoritative statements

Governance Issues" (2016) 8 Indian Journal of Corporate Law 23.

¹³ *CIT v. B.C. Srinivasa Setty*, (1981) 2 S.C.C. 460 (India).

¹⁴ *Hindustan Lever Employees' Union v. Hindustan Lever Ltd.*, (1995) Supp (1) S.C.C. 499 (India).

¹⁵ *Miheer H. Mafatlal v. Mafatlal Industries Ltd.*, (1997) 1 S.C.C. 579 (India).

¹⁶ *Vodafone International Holdings BV v. Union of India*, (2012) 6 S.C.C. 613 (India).

¹⁷ *ADP India Pvt Ltd v. Deputy Commissioner of Income Tax*, ITA 123/2018 (Delhi ITAT, 2020).

¹⁸ Rajat Mittal, "Judicial Trends in Transfer Pricing Valuation" (2021) 30 *Taxmann Journal* 95; Suranjali Tandon, "Transfer Pricing Litigation in India: Trends and Challenges" (2019) 15 *National Institute of Public Finance and Policy Working Paper* 45.

reconciling accounting valuations with valuations conducted under the Companies Act/NCLT framework or under tax law, leaving the outcome of any given dispute difficult to predict from precedent. Third, empirical literature on the frequency, causes and modes of resolution of IA valuation disputes in Indian M&A remains sparse, limiting the evidentiary basis available to policymakers contemplating reform. This paper is directed at these gaps: it undertakes a systematic doctrinal mapping of the overlapping frameworks, evaluates their adequacy against explicit criteria, and -drawing on the available case law and comparative material - advances a reform agenda grounded in that evaluation.

3. STATEMENT OF THE PROBLEM

Indian M&A practice is governed by a set of overlapping instruments -Ind AS and IFRS-aligned accounting standards, the ICAI Valuation Standards and Technical Guide, the Companies Act and NCLT adjudicatory process, SEBI's disclosure regulations, the practice of the tax authorities, and an accumulating body of judicial pronouncements -each of which regulates some dimension of the valuation of intangible assets

without being formally subordinated to, or coordinated with, the others. Ambiguity accordingly arises at several distinct thresholds: in identifying which assets qualify as intangible assets at all; in choosing the basis of measurement (cost, market or income); in estimating useful life for amortisation purposes; and in determining which regulator or tribunal has the final word when two frameworks yield different answers for the same asset in the same transaction.

The consequence of this overlap is not merely theoretical. It produces valuation conflicts between transaction parties, inconsistent outcomes across deals that are economically comparable, and heightened legal uncertainty for buyers, sellers, independent valuers, auditors, tax authorities and regulators alike. This paper advances the argument that the multiplicity of standards and regulatory touchpoints governing IA valuation is itself a source of structural -as opposed to merely technical -uncertainty in Indian M&A. Left unaddressed, that uncertainty manifests as misallocation of purchase price, disputes over goodwill recognition, elevated tax-compliance risk, and post-merger litigation. The paper's central normative claim is that this structural uncertainty calls for targeted harmonisation: (i) a clearer hierarchy among competing valuation methodologies; (ii) more robust disclosure requirements specific to intangible-asset valuation in M&A; and (iii) statutory recognition of professional valuation standards, so that they operate as binding law rather than persuasive practice. Together, these measures would reduce controversy and improve the efficiency of the Indian M&A market.

4. RESEARCH OBJECTIVES

This paper pursues five objectives:

1. To map the legal, accounting and regulatory instruments that govern the valuation of intangible assets in Indian M&A transactions, namely Ind AS 38/103/113, IFRS 3, the ICAI Valuation Standards, the IBBI registered-valuer framework, the Companies Act, 2013, SEBI's takeover, delisting and disclosure regulations, the Income Tax Act and Rules, and the relevant body of judicial decisions.
2. To identify the principal sources of legal uncertainty and regulatory overlap that affect IA valuation in M&A transactions, distinguishing conceptual divergence (differing definitions of value) from institutional divergence (differing adjudicatory approaches).
3. To analyse how these overlaps affect substantive valuation outcomes -purchase price allocation, goodwill recognition, tax treatment and the incidence of post-deal disputes.
4. To evaluate the adequacy of existing Indian valuation standards and judicial guidance in resolving valuation disputes, measured against the criteria of consistency, predictability and methodological coherence.
5. To recommend practical legal and regulatory reforms, together with best-practice guidance for valuers and deal counsel, capable of reducing uncertainty and improving predictability in IA valuation.

5. RESEARCH QUESTIONS

This paper is organised around five research questions:

- RQ1.** What legal and regulatory instruments currently govern the valuation of intangible assets in Indian M&A transactions?
- RQ2.** Which elements of IA valuation -identifiability, choice of measurement method, estimation of useful life, impairment testing, and disclosure -are most prone to legal uncertainty or conflicting regulatory treatment?
- RQ3.** How have Indian courts, tax authorities and regulators addressed valuation disputes involving intangible assets, and what patterns of reasoning characterise their approach?
- RQ4.** What are the practical consequences of regulatory overlap for transaction parties, in terms of pricing risk, tax exposure and litigation risk?
- RQ5.** Which reforms -statutory, regulatory, or standards-level -would most effectively reduce uncertainty and improve valuation reliability in Indian M&A practice?

6. HYPOTHESES

This paper tests three related hypotheses.

H1 (Primary hypothesis). Regulatory multiplicity -in the absence of an explicit hierarchy or cross-recognition mechanism among the competing frameworks -creates significant legal uncertainty in IA valuation that materially affects M&A outcomes in India. H1 predicts that wherever two or more regulators or adjudicatory bodies possess concurrent competence over the same valuation question, and no statutory rule of precedence exists to resolve a conflict between their approaches, the resulting uncertainty will manifest in observable ways: divergent valuation outcomes for materially similar transactions, elevated rates of valuation-related litigation and appeal, and inconsistent treatment of the same class of intangible asset by different forums -for instance, the ITAT and the NCLT. H1 is tested principally through the doctrinal mapping undertaken in Part 9 of this paper, which traces how Ind AS 38, the ICAI Valuation Standards, the Companies Act framework, SEBI's regulations and the practice of the tax authorities each approach the same valuation questions differently, and through the case-law analysis in Parts 9 and 10.

H2 (Secondary hypothesis). Statutory recognition of a harmonised valuation framework - one that expressly aligns Ind AS principles with ICAI's valuation standards and clarifies the respective roles of SEBI and the NCLT -would reduce the incidence and intensity of valuation disputes and improve deal predictability. Because this hypothesis is normative and predictive rather than purely descriptive, it cannot be verified through doctrinal analysis of existing law alone; it is tested indirectly, in Part 11 of this paper, by reference to comparative experience under the IFRS/IVS framework and the practice of selected international standard-setters, and it informs the reform proposals developed in Part 12.

H3 (Tertiary hypothesis). The absence of a binding inter-regulatory coordination mechanism linking the Ministry of Corporate Affairs, SEBI, the income-tax authorities and the NCLT/NCLAT system is itself an independent contributor to valuation uncertainty, distinct from substantive disagreement over valuation methodology, because it permits the same intangible asset to be assessed differently by different forums in connection with the very same transaction. H3 supplies the institutional link between H1 and H2 and is examined principally in Parts 11 and 12 of this paper.

Taken together, H1, H2 and H3 frame this paper's central argument: that legal uncertainty in IA valuation is structural rather than incidental, and that its resolution lies in statutory and institutional reform rather than in the further refinement of valuation methodology alone.

7. SCOPE AND LIMITATIONS

7.1 Scope

This paper is concerned principally with the Indian jurisdiction, with selective reference to international accounting and valuation standards for comparative purposes. Its substantive focus is mergers, acquisitions and business combinations in which intangible assets -goodwill, patents, trademarks, copyrights, software and customer relationships -constitute a significant part of the consideration. The instruments examined are Ind AS 38 (Intangible Assets), IFRS 3 (Business Combinations), the relevant provisions of the Companies Act, 2013 governing schemes of amalgamation and mergers, SEBI's takeover and delisting regulations, the ICAI Valuation Standards and Technical Guide, the practice of the tax authorities, and the body of judicial pronouncements bearing on valuation issues in M&A. The paper evaluates the interaction of these instruments in practice and identifies the overlaps and ambiguities that shape valuation outcomes.

7.2 Limitations

This is principally a doctrinal study, grounded in statutory text, accounting standards, professional guidance and judicial pronouncement. The absence of a large proprietary M&A dataset restricts empirical analysis to

selective case studies and secondary reports, rather than a systematic quantitative survey of valuation disputes. The regulatory environment under study is also changing rapidly: amendments to Ind AS, evolving NCLT/NCLAT jurisprudence, SEBI actions and professional guidance issued after this paper was finalised may affect the currency of its recommendations, which are accordingly offered by reference to the most recent sources available at the time of writing. Finally, the comparative dimension of the paper -which draws on IFRS, IVS and WIPO guidance -is illustrative rather than exhaustive; it is used to contextualise the Indian framework rather than to conduct a comprehensive comparative-law survey of any single foreign jurisdiction.

8. RESEARCH METHODOLOGY

8.1 Research Design

This paper adopts a doctrinal-analytical research design, supplemented by selective case-study illustration. The doctrinal-analytical method proceeds through close, systematic reading of the governing legal texts, accounting standards, regulatory instruments and professional valuation guidance, in order to identify the specific points of ambiguity, overlap and structural uncertainty that affect the valuation of intangible assets in Indian M&A. This design is well suited to the investigation of normative inconsistency across legal, accounting and regulatory systems, and its doctrinal conclusions are, where possible, corroborated against the practical experience recorded in decided cases and secondary reports.

8.2 Doctrinal Analysis

The doctrinal component of the paper analyses the applicable provisions of the Companies Act, 2013 -in particular those governing mergers, amalgamations, and the statutory regime for registered valuers - alongside Ind AS 38 (Intangible Assets) and IFRS 3 (Business Combinations), with particular attention to recognition, measurement, identifiability, useful life, impairment and the treatment of goodwill arising on acquisition. It further examines the ICAI Valuation Standards and Technical Guide on Valuation, which supply methodological guidance on the income, market and cost approaches, including the relief-from-royalty and multi-period excess earnings methods. SEBI's takeover and delisting regulations are analysed with particular attention to disclosure requirements, fairness opinions and valuation transparency. Judicial rulings and the assessments of tax authorities concerning the valuation of intangible assets in M&A are examined to understand prevailing patterns of judicial reasoning and regulatory enforcement, together with relevant regulatory guidance issued by the Ministry of Corporate Affairs and decisions of the NCLT and NCLAT bearing on valuation methodology or the interpretation of applicable regulation.

8.3 Comparative Analysis

The paper undertakes a comparative examination of valuation treatment across standards and frameworks, contrasting Ind AS/IFRS with the ICAI Valuation Standards in terms of recognition criteria, measurement basis, and amortisation or impairment methodology. It examines the principal valuation methodologies in comparative perspective -income-based approaches such as discounted cash flow and multi-period excess earnings analysis, market-based approaches such as comparable transactions and relief-from-royalty analysis, cost-based approaches, and specialised techniques (including option-pricing models) used in the valuation of intellectual property -in order to identify inconsistencies in methodological application and the specific points at which regulatory or interpretive disagreement is most likely to arise.

8.4 Case-Study Method

A selective case-study method is used to illustrate how the doctrinal and methodological issues identified above manifest in practice. The paper examines a representative set of Indian M&A transactions and judicial

or tax determinations in which the valuation of intangible assets was material -including disputes concerning goodwill allocation, trademark valuation, and transfer-pricing adjustment -drawing principally on ICAI's compilations of judicial pronouncements and publicly available tax determinations, such as *ADP India Pvt Ltd v. Deputy Commissioner of Income Tax*, in which the tax authorities subjected valuation assumptions and methodology to heightened scrutiny. These case studies are analysed to identify the common causes of valuation conflict, patterns in judicial decision-making, and the character and scope of regulatory intervention.

8.5 Sources and Thematic Analysis

The study draws on primary sources -Ind AS 38, IFRS 3 and Ind AS 113; the ICAI Valuation Standards and Technical Guide on Valuation; the Companies Act, 2013 and SEBI's Takeover and Delisting Regulations; and the decisions of the NCLT, NCLAT, the Supreme Court and the tax tribunals -together with secondary sources including international standards and literature on intangible-asset valuation, such as WIPO manuals, IFRS commentaries and academic scholarship. Analytically, the paper groups the identified sources of uncertainty into recurring themes -the identifiability of intangible assets, the selection of measurement bases, and jurisdictional overlap among regulators -and evaluates the outcomes of the selected case studies against the accounting and valuation standards ostensibly applicable to them, in order to determine the degree of consistency or divergence between doctrine and practice. On this analytical basis, the paper formulates its policy and practice recommendations, directed at the specific gaps identified in statutory guidance, professional standards and regulatory coordination. Taken together, this methodology supports a holistic doctrinal and comparative evaluation of legal uncertainty and regulatory overlap in the valuation of intangible assets in Indian mergers and acquisitions.

9. REGULATORY AND ACCOUNTING ARCHITECTURE GOVERNING INTANGIBLE ASSET VALUATION IN INDIA

9.1 Conceptual Foundations: What Is Being Valued, and Why It Matters

The theoretical starting point for any analysis of IA valuation is the definitional and classificatory apparatus of the applicable accounting standards, since these determine not only what qualifies as an intangible asset but the circumstances under which it may be recognised and measured at all. Ind AS 38 defines an intangible asset as an identifiable, non-monetary asset without physical substance that is controlled by the entity and from which future economic benefits are expected to flow. This definition rests on three cumulative criteria -identifiability, control, and expected future economic benefit -that together constitute the threshold for recognition. IFRS 3, which governs the accounting treatment of a business combination, operates in a related but analytically distinct register: rather than asking whether an asset may be recognised in the ordinary course of business, it asks whether an identifiable intangible asset acquired in a business combination should be recognised separately from goodwill, and requires that it be measured at its acquisition-date fair value. Although Ind AS 38 and IFRS 3 (via Ind AS 103) are formally aligned, closer analysis reveals substantial interpretive divergence between them.

The most consequential conceptual distinction is that between identifiable and non-identifiable intangibles. Identifiable intangibles are separable -capable of being sold, transferred or licensed independently of the business as a whole -or arise from contractual or legal rights, as in the case of patents or trademarks. Goodwill, by contrast, is non-identifiable: it has no independent legal existence and is not separable,

representing instead whatever value remains in a business combination after all identifiable assets and liabilities have been recognised. This distinction has significant valuation consequences. Identifiable intangibles can, in principle, be valued directly using recognised methodologies; goodwill, being a residual, absorbs the cumulative measurement error of every other valuation judgment made in the transaction, together with genuinely un-decomposable elements such as synergies, workforce quality and future growth expectations. The inherently residual character of goodwill is a principal source of the subjectivity that pervades purchase-price-allocation disputes.

A second important distinction is between internally generated and acquired intangibles. Ind AS 38 prohibits the recognition of internally generated goodwill outright, and imposes strict conditions -including demonstrated technical feasibility and probable future economic benefit

-on the recognition of other internally generated intangibles, such as development costs. Acquired intangibles, by contrast, are recognised at fair value under Ind AS 103 even where the acquiree had never recognised them on its own balance sheet. This asymmetry is not accidental: it reflects a deliberate accounting policy choice to prioritise reliability and verifiability for internally generated assets while accepting the greater estimation uncertainty inherent in fair-valuing acquired intangibles by reference to hypothetical market-participant assumptions. The practical consequence, however, is that economically identical assets may receive entirely different accounting treatment depending solely on whether they were built in-house or acquired -a divergence that becomes acutely relevant whenever a transaction crystallises the value of previously unrecognised, internally generated intangibles.

Finally, the choice among valuation methodologies compounds this conceptual complexity. Indian and international practice alike recognise three canonical approaches: the income approach, which discounts expected future economic benefits to present value (most commonly through discounted cash flow or multi-period excess earnings analysis); the market approach, which relies on comparable transactions or market prices for similar assets; and the cost approach, which estimates the cost of reproducing or replacing the asset. Each approach carries distinct assumptions, data requirements and degrees of subjectivity, and the appropriate choice varies according to asset type and the availability of market information. Intellectual property, for instance, is most commonly valued using the income approach precisely because comparable market transactions for a genuinely unique asset are rarely, if ever, available.

9.2 The Accounting Framework: Ind AS and IFRS Convergence

India's accounting framework for IA valuation is formally anchored in the Indian Accounting Standards, which are substantially converged with IFRS as a matter of deliberate policy, intended to enhance global comparability and align Indian corporate reporting with international best practice. This textual convergence, however, conceals considerable subjectivity and divergence in actual application, particularly in the interaction among Ind AS 38 (Intangible Assets), Ind AS 103 (Business Combinations) and Ind AS 113 (Fair Value Measurement) -the three standards whose interaction generates most of the practical difficulty in IA valuation.

Ind AS 38 establishes the baseline recognition and measurement regime outside the context of business combinations, requiring that an intangible asset be identifiable, controlled by the entity, and probable to generate future economic benefit. These criteria, while conceptually coherent, generate interpretive difficulty in distinguishing research expenditure from development expenditure and in assessing the probability of future economic return, and the standard's conservative approach to internally generated intangibles -barring goodwill and development costs from recognition absent strict conditions -can understate balance-sheet value relative to economic reality, requiring significant valuation adjustment whenever such assets are subsequently transacted.

Business combinations sharpen this difficulty considerably. Ind AS 103 requires that every identifiable intangible asset acquired in a business combination be recognised separately from goodwill, at its acquisition-date fair value, irrespective of whether the asset had previously been recognised by the acquiree. This shift to fair-value measurement is conceptually significant: it requires the valuer to estimate a hypothetical exit price in an orderly transaction between market participants, rather than to record a historical, verifiable cost. While this approach improves relevance to prevailing market conditions, it introduces substantial estimation uncertainty precisely because most intangible assets are not actively traded,

and it requires income-based models -most commonly the multi-period excess earnings method - that embed numerous assumptions about future cash flows, discount rates and useful economic life.

Ind AS 113 supplies the unifying fair-value measurement framework applicable across these standards, defining fair value as an exit price and organising valuation inputs into a three-level hierarchy running from observable market prices (Level 1) through observable inputs other than quoted prices (Level 2) to unobservable, entity-specific assumptions (Level 3). Because intangible assets typically lack an active market and comparable transaction data, their valuation frequently falls to Level 3, which by construction relies on managerial and professional judgment rather than externally verifiable data. Although Ind AS 113 imposes disclosure requirements intended to promote transparency, these disclosures do not fully capture the sensitivity of the resulting valuation to its underlying assumptions, limiting their effectiveness in reducing information asymmetry between preparers and users of financial statements.

The formal convergence between Ind AS and IFRS therefore masks a significant implementation gap. The most acute manifestation of this gap is the disjuncture between Ind AS 38's restrictive approach to internally generated intangibles and Ind AS 103's requirement that all acquired intangibles be recognised at fair value even where previously unrecognised. The same economic resource may thus be entirely excluded from the balance sheet in one context and fully recognised, at a potentially substantial fair value, in another -a result that complicates financial reporting and creates scope for opportunistic structuring of transactions to crystallise or avoid recognition as commercially convenient.

9.3 Professional Valuation Standards: ICAI and IBBI Frameworks

India's professional regulation of valuation practice has developed considerably through the ICAI Valuation Standards, 2018 and the IBBI's registered-valuer framework, marking a shift from an unstructured, practice-based valuation culture towards one aspiring to methodological rigour and professional accountability. These frameworks, however, operate within a decentralised regulatory landscape and carry differing degrees of binding force, which constrains their effectiveness in resolving valuation disputes and securing uniform practice.

The ICAI Valuation Standards, published in 2018, represent a comprehensive attempt to codify valuation principles and methodology in India. Applicable principally to chartered accountants acting as valuers, they provide detailed guidance on valuation approach, reporting and professional ethics, and are designed to align with the International Valuation Standards (IVS). They prescribe the application of the income, market and cost approaches, including discounted cash flow analysis and relief-from-royalty techniques for intangible assets, and place particular emphasis on the exercise of professional judgment, documentation and transparency in valuation reporting.

Notwithstanding this comprehensiveness, the ICAI Valuation Standards remain, in a strict jurisprudential sense, soft law. They derive their authority from professional self-regulation rather than statutory enactment, and bind ICAI members only through the mechanism of professional discipline. They apply, moreover, only where a chartered accountant is engaged as valuer, and even then their enforcement operates through professional oversight rather than direct operation of law. This weak binding character produces a marked attenuation between the normative ambition of the standards and their practical influence: courts and tribunals are under no obligation to apply ICAI-prescribed methodologies, and in practice treat them as persuasive reference material rather than determinative authority. The standards accordingly promote harmonisation at the level of professional practice without establishing a uniform legal benchmark for valuation.

The IBBI's registered-valuer regime, introduced under the Companies Act, 2013 and formalised through the Companies (Registered Valuers and Valuation) Rules, 2017, represents a more formalised, statutory mode of valuation regulation. It requires that valuations performed in specified contexts -corporate restructuring, insolvency proceedings and other regulatory compliance -be conducted by registered valuers holding prescribed qualifications and subject to registration, training and disciplinary oversight, thereby lending institutional credibility to the valuation profession. The framework further requires compliance with valuation standards notified by the Central Government, which currently point back to the ICAI Valuation Standards, producing a degree of convergence between the two regimes.

Even so, the IBBI framework does not fully resolve the standardisation problem. A significant source of

continuing difficulty is the overlap between the ICAI and IBBI regimes: both seek to regulate valuation practice, but with differing institutional focus -ICAI's standards are profession-centred, while the IBBI framework is transaction-centred, applicable specifically where corporate or insolvency law mandates a valuation. This dichotomy generates ambiguity as to which body of standards governs where both frameworks might apply, creating a risk of methodological and reporting inconsistency that the absence of any express rule of precedence between the two regimes does nothing to resolve.

9.4 Corporate Law Framework: The Companies Act, 2013

The Companies Act, 2013 is the principal statutory instrument regulating corporate transactions in India, and it played a decisive role in institutionalising valuation within the corporate-regulatory framework. Its express recognition of the need for independent valuation in mergers, compromises, arrangements and related-party dealings marks a significant departure from earlier regimes, in which valuation was treated as an implicit or ancillary exercise rather than a formal statutory requirement. The Act, however, deliberately refrains from prescribing valuation methodology, delegating that task to external professional standards -a structural choice that provides flexibility but simultaneously deepens the fragmentation of the overall valuation landscape.

Section 247 of the Act operationalises the statutory requirement by mandating that valuations required under the Act be carried out by registered valuers possessing prescribed qualifications and satisfying prescribed standards. This provision, supplemented by the Companies (Registered Valuers and Valuation) Rules, 2017, establishes a comprehensive regime of registration, qualification, training and disciplinary oversight, professionalising the valuation function and creating an identifiable class of practitioners accountable to statute. Notably, however, Section 247 is largely procedural: it does not itself prescribe how a valuation should be conducted, but instead requires compliance with such valuation standards as may be prescribed, thereby incorporating extraneous standards -chiefly those promulgated by ICAI -into the statutory structure by reference. This delegation reflects a deliberate legislative decision to decouple the regulation of valuation practitioners from the technical substance of valuation methodology; while it lends adaptability to a fast-evolving field, it also generates uncertainty as to the binding force and relative hierarchy of the various standards that might, in principle, be applicable to a given valuation.

The significance of valuation under the Companies Act is particularly acute in the context of mergers, compromises and schemes of arrangement governed by Sections 230 to 232. These provisions require that a scheme of arrangement be supported by a valuation report justifying the proposed share-exchange ratio or the consideration arrangements offered to affected stakeholders. Valuation in this context performs several distinct functions: it seeks to achieve equity among different classes of shareholders, enables the NCLT to review the scheme with appropriate diligence, and allows affected stakeholders to make informed decisions about whether to support or oppose the arrangement. The requirement of an independent valuation report is directed at mitigating the risk that controlling shareholders or management might manipulate transaction terms to the detriment of minority stakeholders or creditors.

9.5 Securities Regulation: The SEBI Framework

SEBI's approach to IA valuation in Indian securities law is oriented principally towards investor protection, market integrity and transparency, and is disclosure-based rather than methodologically prescriptive -a marked contrast to the more directive approach of accounting and professional valuation standards. This orientation is reflected in the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR), the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR), and the practice of requiring fairness opinions in specified corporate transactions. While these instruments formally recognise valuation as a critical component of securities regulation, they do not, collectively, establish a consistent methodological framework, producing a degree of valuation opacity notwithstanding the formal transparency SEBI's disclosure regime is designed to achieve.

The ICDR Regulations govern the valuation process attending capital-raising transactions, particularly initial public offerings and preferential allotments, mandating disclosure of pricing basis, valuation methodology and underlying assumptions. Where a preferential issue is made to related parties, issuers must obtain independent valuation reports to justify the proposed pricing. The regulations, however, prescribe no

particular methodology, leaving issuers and valuers considerable latitude in selecting an approach suited to the diversity of business models and asset structures encountered in practice -latitude that, while defensible on flexibility grounds, also creates scope for methodology selection to be driven by a preferred pricing outcome rather than the objectively most appropriate approach.

The LODR Regulations impose continuing disclosure obligations on listed entities, including the obligation to disclose material events such as mergers, acquisitions and related-party transactions. Valuation reports constitute a prominent component of the disclosure package in such transactions, underpinning both the determination of consideration and the assessment of fairness. SEBI's emphasis on transparency in this context requires detailed explanation of valuation methodology and assumptions, but again stops short of standardisation, offering no compulsory guidance on how valuation techniques should be selected or applied. Investors are consequently furnished with information about the valuation adopted, but without a standardised benchmark against which to assess its reliability.

The use of fairness opinions in M&A transactions further illustrates SEBI's disclosure-based orientation. Fairness opinions, typically issued by independent financial advisers, express a view on whether the consideration offered in a transaction is fair to shareholders from a financial standpoint, and SEBI has mandated their inclusion in specified transactions involving listed companies in order to promote investor confidence and informed decision-making. Fairness opinions are, however, inherently subjective, may draw on an unstandardised mix of valuation methodologies, and are typically qualified by extensive caveats disclaiming reliance on management-supplied information and underlying assumptions -limitations that constrain their evidentiary weight and mean that, however formally transparent, they do little to resolve the underlying uncertainty in the valuation itself.

9.6 The Taxation Framework: Income Tax Act and Valuation Rules

The taxation regime governing the valuation of intangible holdings in India is shaped predominantly by the Income Tax Act, 1961, which adopts a markedly different orientation from accounting and securities regulation: where the latter prioritise faithful representation and investor protection, tax law is directed at preventing valuation manipulation for the purpose of tax avoidance. This objective is reflected in Section 56(2)(x), the transfer-pricing provisions, and Rule 11UA of the Income Tax Rules, 1962, which together establish a "fair market value" (FMV) regime for intangible and other assets that is analytically distinct from - and frequently produces different results than -the fair-value concepts embedded in accounting standards.

Section 56(2)(x) of the Act is directed at taxing the receipt of property, including shares, at a value below fair market value, in order to curb undervaluation-based tax evasion. The determination of FMV for this purpose is governed by Rule 11UA, which prescribes distinct valuation methodologies for different asset classes -for unquoted equity shares, offering a choice between the net asset value method and the discounted cash flow method, subject to certification by a merchant banker or accountant. Although these methodologies bear a superficial resemblance to those used in accounting and professional valuation practice, their application under tax law is markedly more formulaic, leaving considerably less room for the exercise of professional judgment than the equivalent exercise conducted for financial-reporting purposes.

This divergence between FMV under tax law and fair value under accounting standards is a significant source of complication. Fair value under Ind AS 113 is determined by reference to the price at which an orderly transaction would occur between market participants, incorporating market-based assumptions. FMV under Rule 11UA, by contrast, is typically calculated through prescribed formulae or specified approaches designed to prevent tax evasion rather than to capture economic reality with precision. The consequence is that the same asset may receive materially different valuations under the accounting and tax regimes, generating compliance difficulty and heightening the risk of dispute: a valuation acceptable for financial-reporting purposes may nonetheless be disallowed by the tax authorities on the ground that it does not conform to Rule 11UA's prescribed methodology.

The transfer-pricing provisions add a further layer of complexity, particularly in cross-border transactions involving intangible assets. Sections 92 to 92F of the Income Tax Act require that associated enterprises transact at arm's-length prices, determined through specified methodologies including the comparable uncontrolled price method, the transactional net margin method, and the profit-split method. Valuing intangible assets for transfer-pricing purposes is inherently difficult, given the scarcity of genuinely comparable transactions and the firm-specific character of most intangible assets, and this difficulty

routinely produces divergent assumptions between taxpayers and tax authorities, generating substantial litigation before the ITAT.

9.7 The Judicial Approach to IA Valuation in India

The Indian judicial approach to IA valuation is characterised by a distinctive combination of deference to professional judgment and reliance on general legal principles, rather than the application of strict methodological prescriptions. Courts and tribunals -the Supreme Court, the High Courts and the ITAT -have consistently acknowledged the technical and subjective character of valuation, particularly for intangibles such as goodwill, intellectual property and brand value, and judicial reasoning in this field is accordingly typified by case-by-case, principle-based analysis oriented towards fairness and reasonableness rather than methodological uniformity. This approach offers flexibility and context-sensitivity, but at the cost of doctrinal predictability in the face of competing valuations.

In the context of goodwill, the courts have long recognised that its intangible and residual character makes it resistant to precise mathematical quantification. In *CIT v. B.C. Srinivasa Setty*, the Supreme Court held that goodwill is a capital asset to be assessed by reference to factors such as business reputation and earning capacity, while acknowledging the inherent difficulty of ascertaining its cost of acquisition with precision -a holding that highlights the conceptual ambiguity surrounding goodwill and the judiciary's recognition that it does not lend itself to straightforward valuation. In *Hindustan Lever Employees' Union v. Hindustan Lever Ltd.*, decided in the context of corporate restructuring, the Supreme Court reiterated that valuation is not an exact science and that different methodologies may legitimately be valid in different circumstances -a position that signals a considered judicial unwillingness to prescribe a single valuation methodology, treating valuation as fundamentally a professional rather than a strictly legal exercise.

Transfer-pricing jurisprudence further illustrates this principle-based orientation. Such cases routinely require courts and tribunals to assess the arm's-length character of transactions involving intangible assets, necessitating engagement with complex economic modelling and comparability analysis. In *Vodafone International Holdings BV v. Union of India*, the Supreme Court emphasised the importance of the economic substance of a transaction and the significance of intangible-asset value in cross-border transactions, while declining to endorse any single valuation methodology and instead stressing a holistic assessment of the relevant facts and circumstances. ITAT decisions in transfer-pricing matters display a comparable inconsistency in methodology -variously applying discounted cash flow analysis or comparables-based approaches -with outcomes that turn heavily on case-specific factors rather than a settled doctrinal template.

9.8 Synthesis: Structural Fragmentation and Regulatory Overlap

The preceding analysis of the legal, accounting and regulatory frameworks governing IA valuation in India reveals a highly fragmented and compartmentalised system, marked by overlapping jurisdiction, divergent regulatory objectives, and inconsistent methodology. Accounting, corporate law, securities regulation and taxation each bring an independent normative perspective to valuation, generating a patchwork of standards that lacks coherence or integration. While certain areas of convergence exist -most notably in the shared reliance on internationally derived accounting principles -these are overshadowed by substantial differences in conceptual foundation, methodological approach and regulatory priority.

Accounting standards, particularly Ind AS, aim at faithful representation of economic reality through fair-value measurement grounded in market-based assumptions and professional judgment. Tax law, by contrast, is more prescriptive, anchoring valuation in fair market value as a mechanism to prevent avoidance and base erosion -a divergence manifest in the differing outcomes that Rule 11UA and the transfer-pricing rules can produce relative to the values disclosed in financial statements. The Companies Act codifies the requirement of valuation in transactional contexts such as mergers and arrangements, while delegating substantive methodology to external standards, thereby reinforcing rather than resolving the underlying fragmentation. SEBI's securities regulation, for its part, prioritises disclosure and investor protection, demanding transparency about valuation without imposing methodological uniformity.

The points of intersection among these frameworks are correspondingly few, and are largely procedural rather than substantive: there is broad, cross-cutting agreement that independent valuation by a qualified

professional is necessary, but this agreement does not extend to the substantive fundamentals of valuation - the definition of value, the choice of methodology, or the treatment of pre-eminent intangible-asset categories. The result is a persistent risk of inconsistency, and even outright conflict, in the valuation of the same asset across different regulatory regimes -a risk compounded by the absence of any clear hierarchical relationship among the competing standards, leaving valuers and adjudicators without authoritative guidance on how to reconcile frameworks that point in different directions.

10. EVALUATING THE ADEQUACY OF THE EXISTING FRAMEWORK

10.1 From Mapping to Evaluation

The preceding Part charted the legal, accounting and regulatory frameworks governing IA valuation in India, establishing that the field is organised as multiple overlapping jurisdictions rather than a single doctrinal system. Mapping alone, however, does not answer the more fundamental question this paper is concerned with: whether these frameworks are adequate to resolve valuation disputes and produce credible, defensible outcomes. This Part accordingly shifts from description to evaluation, asking how effectively Indian valuation standards and judicial guidance address the conflicts that arise from IA valuation. This shift demands explicit evaluative criteria, since valuation, unlike many areas of determinate legal rule, involves choice among a range of legitimate approaches and assumptions, such that even a single asset may reasonably be assigned divergent values depending on the approach adopted. The adequacy of a regulatory or adjudicatory structure in this setting cannot therefore be judged solely by its formal comprehensiveness; it must be judged by how effectively it constrains the exercise of professional judgment and enables courts to reach consistent outcomes in analogous cases.

Three evaluative benchmarks structure the analysis that follows: **consistency** -the extent to which valuation standards and judicial decisions produce similar results in similar cases, thereby securing equal treatment; **predictability** -the capacity of stakeholders (valuers, corporations, regulators and litigants) to anticipate valuation outcomes under existing frameworks, thereby minimising litigation risk and transactional uncertainty; and **methodological coherence** -the logical consistency of the underlying valuation strategies and principles across regulatory regimes, and the sufficiency of guidance on methodology selection and application. These benchmarks reflect a broader proposition in regulatory theory that effective governance of complex, technically demanding fields requires not only substantive rules but internal coherence and operational clarity; where such characteristics are absent, fragmentation, interpretive ambiguity and an expanding scope for contention are the predictable results.

10.2 Defining “Adequacy” in Valuation Dispute Resolution

Adequacy in valuation dispute resolution cannot be assessed in purely formal or procedural terms; it must instead be judged against a multidimensional assessment of how effectively the legal and regulatory framework addresses the inherent complexity, subjectivity and economic significance of valuation. Because intangible-asset valuation rests on forward-looking assumptions and probabilistic estimation, adequacy cannot be satisfied merely by the existence of applicable rules -it requires that those rules, in combination with adjudicatory practice, reliably narrow the range of reasonable disagreement and deliver outcomes that similarly situated parties can anticipate in advance.

10.3 The Functional Role of Indian Valuation Standards in Disputes

In practice, Indian valuation standards function principally as persuasive reference material rather than binding authority in the resolution of disputes. Courts and tribunals routinely consult ICAI’s methodology and the IBBI’s registered-valuer standards to assess the plausibility of a contested valuation, but they are not obliged to adopt or defer to them, and the weight accorded to any given standard varies considerably from forum to forum. This functional ambiguity means that the same valuation report, presenting an identical

methodology, may be treated as dispositive before one adjudicatory body and as merely indicative -subject to searching independent scrutiny -before another. The absence of a settled rule establishing when, and to what extent, professional standards bind an adjudicator is itself a significant source of unpredictability, since it leaves open, in every dispute, a threshold question that ought properly to have been resolved as a matter of general doctrine.

10.4 Judicial Behaviour in Valuation Disputes: Patterns and Limits

Judicial behaviour in valuation disputes exhibits a recurring pattern: a strong initial deference to expert valuation evidence, tempered by an equally strong reluctance to articulate the substantive criteria by which that evidence should be assessed. Courts characteristically ask whether a challenged valuation is “manifestly unfair” or “unreasonable” -the formulation adopted in *Miheer H. Mafatlal v. Mafatlal Industries Ltd.* - without specifying what would render a valuation unreasonable beyond gross or self-evident error. This pattern, replicated across a wide range of corporate and insolvency proceedings, produces a form of “soft” judicial review: real scrutiny is reserved for extreme cases, while the great majority of contested valuations survive challenge simply because they fall short of manifest unreasonableness, irrespective of whether they reflect the most defensible methodology available. The result is a body of case law that offers considerable comfort to valuers and transaction parties in the ordinary case, but correspondingly little guidance on how competing, facially plausible valuations ought to be adjudicated between.

10.5 The Tension Between Technical Valuation and Legal Adjudication

At a deeper level, this pattern reflects an unresolved tension between the technical character of valuation and the institutional design of legal adjudication. Valuation is, in substance, an exercise in applied financial economics, requiring facility with discounted cash flow modelling, comparable-company analysis, and the statistical assessment of risk and growth assumptions. Legal adjudication, by contrast, is designed to resolve disputes through the application of relatively determinate rules to a body of contested but ultimately binary factual findings. Where the underlying dispute is itself a matter of degree -as valuation characteristically is - the adjudicatory apparatus is poorly matched to the task, and courts respond, understandably but problematically, by retreating to broad-brush assessments of credibility rather than a genuinely analytic evaluation of the competing methodologies. This mismatch is aggravated by the absence, noted above, of any binding methodological hierarchy: where the law itself does not specify which valuation approach ought ordinarily to prevail for a given asset class, judicial reluctance to make that choice on the tribunal’s own initiative is scarcely surprising, but it leaves litigants without a stable basis for predicting outcomes.

10.6 Sectoral Inconsistency in Dispute Resolution Outcomes

10.6.1 Corporate and Insolvency Contexts

Valuation disputes in the corporate and insolvency spheres are shaped by the distinctive purposes and institutional design of these fields. In corporate restructuring, mergers and schemes of arrangement, valuation is chiefly concerned with fairness to shareholders and other stakeholders. This orientation permits the NCLT and NCLAT to adopt a broadly deferential approach to expert valuation reports, intervening only where the valuation can be shown to be unreasonable or tainted by bias -the approach articulated in *Miheer H. Mafatlal*, where the Supreme Court held that judicial review extends to the fairness of the scheme as a whole rather than to the technical accuracy of the valuation methodology employed.

Valuation in the insolvency context serves a related but distinct function, since liquidation value and fair value must both be determined in resolving proceedings under the Insolvency and Bankruptcy Code (IBC). IBBI regulations require that registered valuers be engaged and that valuation reports conform to prescribed methodologies, yet disputes remain common concerning the accuracy and reliability of such valuations, particularly where resolution applicants or dissenting creditors challenge the underlying assumptions. The NCLT and NCLAT have, on occasion, ordered fresh valuations or appointed independent valuers in response to such disputes -a practice that enhances procedural fairness but simultaneously introduces further

variability, since different valuers, applying the same underlying data, may reach materially different conclusions. Corporate and insolvency valuation disputes are accordingly resolved with reference to equity and procedural fairness rather than methodological consistency -an orientation defensible on its own terms, but one that produces outcomes that vary considerably across superficially comparable cases and asset classes.

10.6.2 Tax and Transfer-Pricing Contexts

Valuation disputes in taxation and transfer pricing follow a markedly different, more rule-bound trajectory. Here the central concern is statutory compliance and the prevention of tax evasion, which produces a correspondingly heightened emphasis on methodological precision and documentation. The ITAT sits at the centre of this dispute-resolution process, engaging in extensive analysis of valuation methods, comparables and underlying assumptions. Transfer-pricing disputes involving intangible assets are particularly fraught, since establishing an arm's-length price typically requires reasoning by analogy from transactions that are, by the very nature of unique intangible assets, rarely if ever genuinely comparable. The ITAT has developed a substantial body of jurisprudence addressing methodology selection, the reliability of comparables, and the permissible use of projections, and has in numerous instances rejected valuation reports that, though consistent with accounting or professional standards, do not strictly satisfy the requirements prescribed under the Income Tax Act and its subordinate rules -a pattern that effectively subordinates broader valuation principle to narrower statutory compliance.

This divergence is intensified by the coexistence of distinct valuation concepts -fair market value under tax law and fair value under accounting standards -which routinely yield different figures for the same underlying asset, generating both compliance difficulty and a heightened risk of litigation. Tax adjudication is correspondingly more technical in orientation, focused on the precise correctness of the valuation methodology employed rather than on the broader question of fairness or business rationale that dominates corporate and insolvency adjudication. This sectoral divergence underscores a broader point: the Indian valuation system is genuinely fragmented, in the sense that different legal spheres apply different standards and priorities to functionally similar valuation questions, producing a systemic absence of coherence and predictability across the legal system as a whole.

10.7 Empirical and Doctrinal Indicators of Inadequacy

The adequacy of a valuation framework can be assessed not only by reference to its conceptual coherence but also by observable indicators of its performance in practice. In the Indian context, three such indicators are especially salient: persistently high litigation rates, conflicting judicial and tribunal decisions, and the frequent recourse to revaluation as a mode of dispute resolution. Taken together, these indicators corroborate the doctrinal analysis above: the existing valuation standards and judicial approach have not succeeded in delivering closure or certainty in the resolution of valuation disputes, and the weakness of the regulatory and adjudicatory treatment of intangible-asset valuation is systemic rather than episodic.

The sustained volume of transfer-pricing litigation before the ITAT, much of it concerned with the valuation of trademarks, brand value and other intellectual property, is a particularly clear empirical marker of this inadequacy. Under a law-and-economics reading, persistently elevated litigation rates signal an underlying absence of regulatory efficiency, since parties are incurring substantial cost to contest valuation outcomes that remain difficult to predict and to agree upon in advance. This tendency is reinforced by the coexistence of multiple permissible valuation methods across different legal regimes, which creates scope for parties to adopt strategically advantageous positions and correspondingly increases the likelihood of dispute.

Doctrinal incoherence compounds this pattern. Courts and tribunals operating under different statutory mandates have, on comparable valuation questions, reached materially inconsistent conclusions - constitutional courts tending towards a deferential, fairness-oriented posture, and specialised tribunals such as the ITAT tending towards active, methodology-focused scrutiny, frequently rejecting valuation reports on technical grounds. This divergence is substantive rather than merely procedural, reflecting genuinely different conceptions of the proper role of valuation in adjudication, and it forecloses the emergence of a stable, precedent-based body of doctrine on which litigants and practitioners might otherwise rely.

The prevalence of revaluation orders issued by adjudicatory authorities supplies a further indicator of systemic weakness. Tribunals in both corporate and insolvency proceedings have shown a marked

willingness to order fresh valuations, or to appoint independent valuers, whenever an existing valuation is found wanting or is genuinely contested. While such orders are intended to secure equity and accuracy, their frequency is itself telling: it indicates that the underlying valuation process, and the principles guiding it, are commonly perceived as inadequate at first instance. Revaluation, moreover, does not merely delay resolution; it introduces a further source of variability, since successive valuers may apply differing methodologies or assumptions, generating additional contestation and undermining the finality that adjudication is meant to secure. Institutional and policy commentary -including observations from the Insolvency Law Committee concerning the reliability of valuation reports in insolvency proceedings, and academic commentary on the frequency of transfer-pricing disputes -corroborates that these difficulties are practical rather than merely theoretical, and that they carry direct policy significance.

10.8 Organisational Reasons for Inadequacy

The persistence of contentious valuation proceedings and inconsistent adjudicatory outcomes is not attributable to isolated failures but to deeper structural causes: a fragmented regulatory architecture, the non-binding character of valuation standards, limited judicial capacity to engage with technically complex valuation questions, and conflicting institutional mandates across the relevant regulators.

The fragmentation of the regulatory architecture is foundational. As documented in Part 9, IA valuation in India is regulated across multiple domains -accounting standards under Ind AS, corporate law under the Companies Act, securities regulation under SEBI, and taxation under the Income Tax Act -each pursuing a distinct objective (faithful financial reporting, investor protection, corporate governance, or revenue protection) and, in consequence, adopting distinct valuation approaches. This fragmentation is not merely institutional but intellectual: different regimes adopt genuinely different definitions of value, methodological preferences and underlying assumptions, and this complexity correspondingly diminishes the coherence of the overall system and the ease with which stakeholders can navigate it.

The non-binding character of professional valuation standards compounds this structural weakness. Guidance published by ICAI and standards developed under the IBBI framework supply comprehensive advice on methodology and practice, but their authority is confined largely to professional self-regulation and is not consistently applied across the legal system. Because courts and tribunals are not bound to apply these standards, and their application in litigation is essentially discretionary, the standards function as a reference tool rather than an enforceable benchmark -meaning that disputes are not consistently resolved by reference to a shared set of principles, and inconsistent outcomes follow as a natural consequence.

A further structural concern is the limited institutional capacity of courts and tribunals to engage with the multidimensional methodologies that valuation of intangible assets requires. Intangible-asset valuation demands sophisticated financial modelling and economic analysis calling for genuine subject-matter expertise. Although specialised tribunals such as the ITAT and NCLT have developed some familiarity with these questions, the judiciary as a whole is not systematically trained in valuation methodology, and this gap is associated with a documented judicial tendency to resort to broad generalisation rather than close analysis of methodology. Effective adjudication in technically complex fields depends substantially on the capacity of adjudicatory institutions to integrate expert knowledge into their reasoning; absent that integration, judicial reasoning risks failing to engage adequately with the technical substance of the dispute before it.

Institutional overlap and the absence of coordination among the relevant regulatory bodies further sustain this inadequacy. The Ministry of Corporate Affairs, SEBI, the Central Board of Direct Taxes, and professional bodies such as ICAI and the IBBI each exercise jurisdiction over distinct aspects of valuation, without any meaningful mechanism for coordination or harmonisation. The consequence is that requirements imposed by different regulators may overlap or conflict outright: a valuation accepted for financial-reporting purposes may be substantially disputed under taxation law, or challenged in the course of securities regulation. This absence of coordination not only imposes compliance costs but generates genuine uncertainty as to which regulatory standard ought to prevail in the event of a dispute -a difficulty that comparative experience, discussed in Part 11 below, suggests is substantially mitigated where jurisdictions adopt unified valuation standards or establish an explicit hierarchy among competing regulatory regimes.

At a more fundamental level, the structural deficiency of the Indian valuation regime reflects a mismatch between the normative aspirations of law -certainty, uniformity, enforceability - and the inherently flexible, context-dependent, probabilistic character of valuation practice. In the absence of a mechanism capable of

reconciling these divergent orientations, the resulting framework lacks the unity and integration necessary for coherent operation, a difficulty aggravated by the absence of any central authority or common rule-set spanning the different fields in which valuation questions arise.

10.9 Synthesis: Why the Current Framework Fails

The analysis in this Part demonstrates that the inadequacy of the Indian valuation framework is not attributable to a single idiosyncratic doctrinal failure or institutional lapse, but reflects a systemic deficiency operating along three interconnected axes: normative clarity, institutional coordination, and adjudicatory consistency. Measured against the evaluative criteria of consistency, predictability and methodological coherence identified at the outset of this Part, the existing system does not provide a reliable mechanism for the resolution of valuation disputes over intangible assets.

The first axis of failure concerns normative clarity. India's valuation landscape comprises multiple frameworks -accounting standards, professional valuation standards, corporate-law provisions, securities regulation and tax regulation -each embodying its own conception of value, methodology and regulatory objective. This normative pluralism produces conceptual incongruence on foundational questions: the definition of fair value, the treatment of goodwill, and the appropriate valuation methodology. The coexistence of fair value under accounting standards and fair market value under tax law is emblematic of this incongruence, producing conflicts that the current framework offers no mechanism to resolve. Judicial reasoning, confronted with this normative plurality, is forced to operate without a clear order of priority or governing principle, and frequently falls back on general concepts of equity, fairness or reasonableness that lack determinate content.

The second axis is institutional coordination. Regulatory responsibility for valuation is dispersed across the Ministry of Corporate Affairs, SEBI, the Central Board of Direct Taxes, and professional bodies such as ICAI and the IBBI, each operating under a statutory mandate that is neither well-coordinated nor integrated with the others. This institutional dispersion generates overlapping -and at times directly conflicting -requirements, particularly where a single transaction falls within the jurisdiction of multiple regulatory regimes simultaneously. Effective governance of complex regulatory fields is understood, as a matter of regulatory theory, to require both coordination mechanisms and substantive rules if consistency and coherence across institutions are to be achieved; the Indian valuation framework currently possesses neither in adequate measure, producing systemic misalignment as a predictable result.

The third and most visible axis of inadequacy is adjudicatory inconsistency. The manner in which judicial and quasi-judicial bodies resolve valuation disputes varies considerably, shaped by differing institutional mandates, differing levels of technical expertise, and differing conceptions of the adjudicator's proper role. Where constitutional courts tend towards deference and principle-oriented reasoning, specialised tribunals apply valuation methodology with far greater directness, producing markedly different outcomes even on comparable facts. This divergence is aggravated by the absence of standardised evidentiary thresholds or methodological guidelines governing the assessment of expert evidence, leaving courts to exercise essentially discretionary judgment. The empirical indicators surveyed above -elevated litigation rates, conflicting decisions, and the frequent resort to revaluation - are symptomatic of this failure to deliver finality and predictability, and they impose real costs on stakeholders who must navigate an incoherent and disjointed legal landscape.

These findings establish not merely that reform is desirable but that it is structurally necessary. Effective reform must address the normative and doctrinal gaps identified in this Part by promoting greater harmonisation of regulatory regimes and by strengthening the integration of professional valuation standards into the legal system -through, among other measures, the articulation of shared valuation principles, the elevation of professional standards to a more authoritative legal status, and the development of clearer judicial guidance on the assessment of valuation evidence. Such measures would not only enhance the predictability and uniformity of dispute resolution but would also strengthen confidence in, and the perceived legitimacy of, valuation practice more broadly -the reform agenda taken up in Part 12 below.

11. COMPARATIVE ANALYSIS: INDIA AND INTERNATIONAL PRACTICE

11.1 Purpose and Scope of the Comparative Inquiry

The growing complexity of intangible-asset valuation -particularly in cross-border transactions and internationalised financial markets -calls for a comparative analytical lens that is not confined by territorial regulatory boundaries. The Indian valuation regime examined in Parts 9 and 10 is structurally, conceptually and institutionally fragmented; but an inquiry confined to the domestic setting alone risks conflating problems that are inherent to valuation as a discipline with problems attributable specifically to India's legal and regulatory organisation. Comparative analysis therefore serves an important methodological function: it distinguishes difficulties intrinsic to the valuation exercise from difficulties attributable to institutional design, and situates the Indian framework within a broader international context. The comparative frameworks examined here were selected for their relevance and influence. IFRS and the antecedent International Accounting Standards (IAS) supply the principal international benchmark for accounting-based valuation and constitute the conceptual foundation of India's own Ind AS regime. The International Valuation Standards (IVS), issued by the International Valuation Standards Council (IVSC),¹⁹ constitute a widely recognised body of guidance governing valuation practice across asset classes, including intangible assets. WIPO's guidance materials,²⁰ for their part, offer specialised direction on the valuation of intellectual property, addressing problems that are especially acute for intangible assets. Together, these frameworks span the accounting, professional-valuation and intellectual-property perspectives necessary for a rounded comparative account.

The comparative method adopted here is capable of revealing both convergence and divergence in legal and regulatory practice. Comparative-law scholarship has long observed that formal convergence -the adoption of textually similar rules or standards -frequently conceals substantive divergence in interpretation and application. This observation is especially pertinent where India has committed to IFRS alignment, since formal textual alignment may obscure genuine differences in regulatory purpose, institutional capacity and enforcement practice. Examining how international frameworks conceptualise and operationalise valuation accordingly makes it possible to determine whether the deficiencies identified in the Indian framework are inherent to valuation itself, or are attributable to the specific institutional choices India has made -a distinction of considerable consequence for the design of any reform agenda, since it determines whether reform should proceed by importing established international practice or by addressing distinctively domestic constraints.

11.2 Convergence and Divergence in Financial Frameworks

At the conceptual level, the valuation of intangibles is governed by definitions and recognition criteria that determine what may be recognised as an asset, and when. Ind AS 38 closely mirrors IAS 38 in defining an intangible asset as an identifiable, non-monetary asset

¹⁹ International Valuation Standards Council, International Valuation Standards (2022).

²⁰ World Intellectual Property Organization, Intellectual Property Valuation (guidance resources, n.d.).

lacking physical substance, and IFRS 3 supplies comparable guidance on recognising intangible assets in business combinations, emphasising identifiability, control and expected future economic benefit. At a formal level, therefore, there is substantial convergence between Indian and international frameworks, reflecting India's deliberate adoption of IFRS-aligned standards.

This convergence, however, is considerably more textual than substantive. Although the Ind AS and IAS definitions are near-identical, their meaning in practice can differ significantly depending on differences in regulatory conditions, professional practice, and enforcement capacity. The identifiability criterion, for instance, requires that an asset be separable or arise from contractual or legal rights, yet the underlying determination of separability is often highly subjective, particularly for complex categories such as brands, customer relationships or proprietary technology. International practice, supported by extensive interpretative guidance and a broader base of professional consensus, tends towards a more formalistic and consistent resolution of this question; Indian practice, by contrast, tends to be more variable, reflecting disparities in professional expertise and the comparative weakness of regulatory oversight.

The distinction between internally generated and acquired intangible assets illustrates a further point of practical divergence. Both Ind AS 38 and IAS 38 bar the recognition of internally generated goodwill and

impose stringent conditions on the recognition of other internally generated intangibles; this rule is broadly consistent across jurisdictions, but its practical consequences differ. In jurisdictions with mature capital markets and robust disclosure regimes, the non-recognition of internally generated intangibles is substantially mitigated by extensive narrative disclosure and supplementary information provided to investors. In India, disclosure practice is comparatively less standardised, which increases the practical significance of formal valuation in transactional contexts and correspondingly heightens the potential for dispute.

A further conceptual point of divergence concerns the distinction between fair value and fair market value. Under IFRS and Ind AS, fair value is defined as the price that would be received to sell an asset in an orderly transaction between market participants at the measurement date -an exit-price, market-based construct incorporating the assumptions that market participants would themselves apply. Fair market value, by contrast, as employed within India's tax system, is frequently defined by statute or regulation in more formulaic, administrable terms designed for objectivity and ease of application rather than economic fidelity. Although both concepts aim to approximate economic value, their underlying methodologies and assumptions differ, generating apparent paradoxes where the same asset receives materially different values under different regimes.

This distinction between fair value and fair market value carries real valuation consequences rather than being a matter of terminology alone. The IFRS-derived conception of fair value permits the use of income, market and cost approaches, with substantial scope for professional judgment and market-based assumptions; fair market value under tax law, by contrast, is frequently governed by narrower protocols or formulae that constrain the exercise of discretion. This distinction mirrors the differing purposes of financial reporting (faithful and relevant presentation) and tax law (certainty and the prevention of avoidance); but because both notions must operate within the same legal system, their coexistence generates real tension and reinforces the fragmentation documented throughout this paper.

The availability and maturity of market data further affects the practical application of the fair-value principle. International valuation models generally presuppose the existence of active or observable markets for most asset categories, permitting the use of market-based inputs. In the Indian context, the relative scarcity of such data -particularly for intangible assets -compels greater reliance on unobservable inputs and internally generated valuation models, increasing subjectivity and dispersion of outcomes even where the underlying standards are formally aligned with international practice. In sum, formal convergence between Indian and international valuation standards is real at the level of textual definition, but substantive convergence in interpretation and implementation remains limited; the resulting divergence is attributable less to the content of the standards themselves than to differences in regulatory objective, institutional capacity and market environment -a conclusion of central importance in designing an effective reform strategy.

11.3 Hierarchy and Institutional Structure of Valuation Standards

The effectiveness of any valuation framework depends not solely on the content of its standards but equally on the institutional architecture through which those standards are implemented. Consistency, enforceability and predictability depend on a coherent hierarchy of norms resting on an established institutional division of responsibility. A comparative examination of the Indian and international frameworks reveals a structural divergence between them: international systems are characterised by a comparatively clear hierarchical ordering of authority and institutional coordination, whereas the Indian framework is characterised by overlapping competence and the absence of any binding prioritisation among its constituent norms.

India's valuation architecture comprises several layers of regulation, each with distinct objectives and institutional foundations. At the apex, for financial-reporting purposes, sit the Indian Accounting Standards notified under the Companies Act, 2013, closely aligned with IFRS and governing the accounting recognition and measurement of intangible assets. Alongside this, ICAI's Valuation Standards, 2018 furnish principles and methodologies applicable across asset classes, including intangibles, while registered valuers operating under the IBBI's framework -established through the Companies (Registered Valuers and Valuation) Rules, 2017 -are subject to eligibility criteria, prescribed standards of conduct and procedural requirements. Sectoral regulators, principally SEBI and the tax authorities, superimpose their own valuation-related requirements, particularly around disclosure, mergers and taxation.

This multiplicity of regulatory sources produces a fragmented institutional structure, reflecting the genuinely varied contexts in which valuation functions. Critically, however, no formally established hierarchy governs the relative authority of these standards where they conflict. Financial-reporting standards are mandatory under Ind AS, but ICAI's standards are not universally binding, and their relevance in litigation is determined largely at the discretion of the adjudicating court. IBBI regulations, similarly, govern the conduct of valuers without prescribing a detailed methodology of general application. The absence of a prioritisation mechanism means that different actors -courts, regulators and professionals -may apply different standards depending on context, producing inconsistency and uncertainty as a direct structural consequence.

International structures, by contrast, tend to exhibit a more hierarchical character with clearer institutional demarcation. The IFRS framework administered by the International Accounting Standards Board (IASB) possesses a clear normative hierarchy comprising the Conceptual Framework, the individual standards (including IAS 38 and IFRS 3), and interpretive guidance issued by the IFRS Interpretations Committee. This hierarchy provides a structured basis for resolving ambiguity, since lower-level guidance is understood and applied by reference to higher-order principles, and the widespread global adoption of IFRS has fostered a shared professional understanding that further reinforces consistency in application.

A broadly analogous structure characterises the practice of valuation itself through the International Valuation Standards developed by the IVSC, organised around general standards, asset-specific standards, and application guidance, with core concepts -valuation bases, approaches, and reporting requirements -clearly articulated. Although not universally of binding statutory force, IVS enjoys broad professional adoption and support, giving it a de facto authority that renders it a widely accepted reference framework; notably, IVS has also been deployed to supplement accounting standards such as IFRS, promoting consistency between financial-reporting and valuation methodology. WIPO's guidance on intellectual-property valuation illustrates a further dimension of institutional maturity in the international sphere: though not binding, it forms part of a well-developed body of knowledge that informs both policy development and professional practice in a specialised field of particular relevance to this paper's subject matter.

The central comparative finding is structural: while international frameworks are not themselves free of complexity, they provide considerably more explicit mechanisms for reconciling and prioritising among competing standards. The Indian model, by contrast, lacks any single institutional framework capable of integrating accounting standards, professional guidance and regulatory provision within an ordered structure. This absence of integration manifests in several ways: it generates confusion, particularly in litigation, over which standard should prevail in the event of conflict; it creates opportunities for regulatory arbitrage, as parties may selectively invoke whichever standard is most advantageous to their position; and it undermines the development of a genuinely coherent professional practice, given the disjointed normative environment in which valuers must operate.

11.4 Methodological Approaches to Valuation: A Comparative Assessment

Valuing intangible assets is, at its core, a methodological exercise requiring systematic approaches to estimating economic value. Both Indian and international frameworks recognise three principal valuation techniques -the income approach, the market approach and the cost approach -which are conceptually equivalent across jurisdictions but differ considerably in their application, underlying assumptions, and degree of standardisation, producing materially different valuation outcomes depending on the jurisdiction in which they are applied. Comparative assessment indicates that international standards impose considerably greater methodological discipline and consistency; Indian practice, by contrast, affords greater latitude to the individual valuer, a latitude that tends to corrode overall consistency.

The income approach -the most widely regarded technique for valuing intangible assets, estimating value as the present value of anticipated future economic benefit -is subject to considerably more detailed prescription under international standards such as IVS, which specify how cash-flow projections, discount rates and terminal values should be selected, and require clear documentation of assumptions and accompanying sensitivity analysis. IFRS 13's classification of inputs as observable or unobservable adds a further layer of methodological discipline governing the choice of technique. The cumulative effect, in practice, is a relatively standardised application of the income approach and a substantial degree of professional consensus on the key parameters involved.

The Indian setting similarly recognises the income approach under the ICAI Valuation Standards, but its application is markedly less consistent. The standards provide broad guidance while leaving valuers considerable discretion over key assumptions and methodological choices -for instance, the calculation of discount rates, a critical input to the income approach, tends to vary substantially across valuations, reflecting differing professional judgment rather than adherence to a common methodology. This variability is compounded by the relative scarcity of reliable market data in India, requiring greater reliance on subjective inputs. As a result, Indian valuations conducted under the income approach are considerably more prone to divergence, particularly in contested settings such as litigation or tax assessment.

The market approach, which derives value from comparable market transactions, exhibits a similar pattern of divergence. International systems place considerable emphasis on the selection and use of robust, genuinely comparable data, supported by well-developed provisions governing comparability adjustments -an emphasis facilitated by access to extensive transaction databases and market data in developed jurisdictions, enabling comparatively uniform application. The Indian market for intangible assets, by contrast, remains relatively immature and lacks comparably comprehensive data, a limitation that frequently forces valuers to rely on imperfect proxies or to abandon the market approach altogether, weakening the overall quality of the resulting valuation.

The cost approach, generally regarded as the least informative method for valuing intangible assets, estimates value by reference to the cost of reproduction or replacement. International standards recognise this limitation and typically treat the cost approach as a supplementary or tertiary method, to be applied only where the income and market approaches are not feasible. Indian practice applies the cost approach with somewhat greater flexibility, often in situations where the alternative approaches are impracticable owing to data constraints -a pragmatic response in individual cases, but one that produces further inconsistency, since the decision to resort to the cost approach is not always informed by a settled and transparent hierarchy of preference among the three approaches.

A further point of divergence concerns the standardisation of inputs and underlying assumptions. International systems place considerable emphasis on standardised inputs - market-based discount rates and industry benchmarks -supported by reliable documentation and disclosure requirements, promoting both transparency and comparability across valuations. In India, the absence of centralised valuation databases and benchmarking tools constrains the standardisation of inputs, increasing reliance on subjective professional judgment and, correspondingly, the likelihood of variation and dispute. Enforcement further differentiates the two systems: international frameworks benefit from stronger institutional mechanisms - professional regulation, regulatory discipline and market oversight -that promote conformity with methodological standards, whereas Indian enforcement mechanisms outside specific regulatory contexts remain comparatively weak, permitting deviation from standard practice, particularly where a party has an incentive to influence the valuation outcome.

This comparative assessment supports the broader conclusion that international frameworks provide considerably greater methodological rigour and uniformity than Indian practice currently affords, without denying that valuation retains an irreducible element of subjectivity even under the most disciplined international frameworks. The institutional support and hierarchical ordering evident internationally serve, however, to constrain discretion and promote consistency to a materially greater extent than the Indian framework currently achieves -a finding that supports the case for introducing more systematic methodological guidance and input-standardisation mechanisms into Indian practice, with corresponding gains in predictability and confidence, particularly in dispute-resolution contexts.

11.5 Goodwill Recognition and Impairment: Indian and Global Practice

Goodwill remains among the most difficult categories of intangible-asset valuation, particularly in business combinations, owing to its lack of conceptual clarity and the absence of any directly observable market. Both Ind AS 103 and IFRS 3 adopt a broadly similar definitional approach, treating goodwill as the excess of consideration transferred over the fair value of net identifiable assets acquired. Even where the underlying accounting definitions are aligned, however, the practical exercise of measuring goodwill and testing it for impairment remains highly sensitive to assumption and professional judgment, and the degree of methodological discipline surrounding that exercise differs considerably between India and jurisdictions with more mature capital markets and deeper professional infrastructure. Internationally, impairment testing

is typically supported by well-developed guidance on cash-generating-unit identification, discount-rate benchmarking and sensitivity disclosure; the comparatively less developed state of these supporting mechanisms in India increases the scope for both understatement and overstatement of goodwill, and for the disputes that inevitably follow.

11.6 Disclosure Standards and Transparency Requirements

International frameworks generally couple fair-value measurement with correspondingly extensive disclosure obligations, requiring preparers to disclose valuation techniques, key assumptions, and the sensitivity of reported values to changes in those assumptions - disclosure practices intended to compensate, at least partially, for the subjectivity inherent in Level 3 fair-value measurement. Indian disclosure practice under Ind AS 113 formally mirrors this approach, but the depth and consistency of actual disclosure in practice lags behind that observed in more mature markets, a gap attributable in part to weaker enforcement and in part to the comparative immaturity of India's market for intangible-asset transactions, which limits the availability of the comparative data against which disclosed assumptions might otherwise be benchmarked by users of financial statements.

11.7 The Role of Intellectual Property Frameworks: The WIPO Perspective

WIPO's guidance on intellectual-property valuation addresses licensing, transfer pricing and dispute-resolution contexts with a specificity that neither India's general accounting standards nor its professional valuation standards currently replicate for IP assets specifically. While not binding in any jurisdiction, WIPO's materials form part of a broader international knowledge infrastructure that shapes professional practice and policy development in IP valuation globally, and their comparative sophistication -particularly in addressing licensing-based valuation methodologies such as relief-from-royalty analysis -highlights a further area in which Indian practice would benefit from more developed, sector-specific methodological guidance.

11.8 Structural Weaknesses of the Indian Framework in Comparative Perspective

Read together, the comparative findings in this Part support a single, cumulative conclusion: the deficiencies identified in the Indian valuation framework in Part 10 are not primarily attributable to the inherent difficulty of valuing intangible assets, since comparable international frameworks confront the same underlying subjectivity without producing the same degree of doctrinal incoherence or institutional fragmentation. Rather, the deficiencies are substantially attributable to specific, correctable features of India's institutional design: the absence of a clear hierarchy among competing valuation standards; the soft-law status of professional guidance; the comparative immaturity of market data infrastructure; and the absence of any coordinating body linking the several regulators with jurisdiction over valuation. This conclusion carries direct significance for the design of reform: because the deficiencies are substantially institutional rather than inherent to valuation as a discipline, they are, in principle, addressable through legal and institutional reform of the kind developed in Part 12 below, rather than requiring any fundamental reconceptualisation of valuation methodology itself.

12. TOWARD REFORM: LEGAL, REGULATORY AND INSTITUTIONAL DESIGN

12.1 From Critique to Reform

The analysis developed in Parts 9 through 11 has traced, in doctrinal and comparative terms, the fragmentation that characterises Indian IA valuation, and has demonstrated that this fragmentation produces structural deficiencies across three axes -normative clarity, institutional coordination, and adjudicatory consistency -that existing correctives have not resolved. These deficiencies are systemic rather than incidental, arising from the operation of multiple regulatory regimes with conflicting objectives and inadequate coordination. It follows that the deficiency of the existing structure cannot be remedied through incremental or partial modification alone. Although regulatory bodies and professional institutions have introduced a range of measures -the adoption of IFRS-aligned Ind AS standards, the issuance of the ICAI Valuation Standards, and the establishment of the registered-valuer regime under the Companies Act -these measures, considered individually, have not achieved the systemic coherence the framework requires. This Part accordingly develops a reform agenda addressed to standards, adjudication and institutional design in turn.

12.2 Reforming Valuation Standards: From Soft Law to Binding Norms

The preceding analysis has shown that Indian valuation standards -particularly those issued by ICAI and the IBBI -occupy an ambiguous position within the legal framework, functioning as persuasive reference material rather than binding legal authority in dispute resolution. Although these standards reflect considerable technical sophistication, their normative character remains predominantly non-binding, which substantially undermines their utility as instruments of dispute resolution, since courts and tribunals are under no obligation to apply them consistently. Valuation standards accordingly function not as authoritative benchmarks but as persuasive references that add to, rather than resolve, the incoherence and uncertainty identified elsewhere in this paper. A fundamental transformation of these standards -from soft law into binding normative frameworks capable of producing coherence and consistency -is required.

The principal weakness of the existing regime lies in the fragmented and conditional applicability of the ICAI and IBBI standards. The ICAI Valuation Standards, in force since 2018, comprehensively address principles and methodology across asset classes, including intangible assets, but apply chiefly to ICAI members or to professionals who voluntarily adopt them. The IBBI's Registered Valuer Regulations similarly require valuation to follow specified methodologies, but only within the specific context of matters arising under the Insolvency and Bankruptcy Code. Beyond these confined domains, compliance with any particular set of valuation standards is not mandatory, creating a regulatory environment in which different standards may be applied to the same asset depending on the legal context in which the valuation is performed -directly undermining the objective of consistency.

The non-binding character of these standards also shapes their treatment in litigation. Courts and tribunals frequently treat valuation standards as indicative of best practice without regarding them as determinative, a discretionary approach that permits adjudicatory bodies to accept or reject particular valuation methodologies by reference to general notions of fairness or prudence, rather than by reference to recognised, agreed norms. While this flexibility may be defensible in exceptional cases, its routine exercise undermines the normative force of valuation standards and diminishes their capacity to shape outcomes in a predictable way; well-designed standards cannot achieve their intended regulatory effect where they lack binding force within the legal system that ultimately adjudicates disputes concerning them.

Given these shortcomings, statutory adoption and codification of valuation standards should form a central pillar of reform. This could be achieved either by incorporating core valuation principles and procedures directly into the Companies Act, 2013, or by enacting a dedicated valuation statute establishing a single,

coherent regulatory regime. Such codification need not extend to every technical detail; it would more usefully establish an ordered hierarchy of standards, identify authoritative sources, and specify default methodological approaches for different asset and transaction types. This approach would enhance legal certainty by establishing clear guidance on the standards applicable in dispute resolution, while retaining sufficient flexibility to accommodate exceptional cases.

Codification of this kind would also facilitate cross-regulatory harmonisation, addressing one of the principal structural deficiencies identified in Part 10. At present, the Ministry of Corporate Affairs, SEBI and the Central Board of Direct Taxes each adopt distinct approaches to valuation, reflecting their respective statutory mandates. An integrated statutory framework could establish parallel guidelines applicable across these domains, narrowing the scope for conflict and inconsistency. Comparative experience with jurisdictions that have implemented integrated valuation standards, such as those operating under the IVS umbrella, demonstrates the benefits of harmonisation in promoting transparency and predictability; while wholesale transplantation of any single foreign model may not be practicable, such experience offers valuable guidance for the design of an effective Indian framework.

Standardisation of valuation methodology forms a further essential component of reform. As noted above, the availability of multiple acceptable valuation approaches contributes materially to variability and controversy, particularly where different methods yield substantially divergent results. While no single methodology is universally appropriate, a hierarchical or presumptive approach -designating, for example, the discounted cash flow method as the default approach for income-generating intangibles, subject to specified disclosure requirements -would materially reduce ambiguity. Departure from the presumptive methodology should remain permissible where appropriate, but should require documented and reasoned justification. This approach balances the need for methodological consistency with the flexibility required to accommodate the full range of valuation contingencies encountered in practice.

12.3 Judicial Reform: Structuring Adjudication in Valuation Disputes

The ultimate effectiveness of any valuation framework depends on the capacity of adjudicatory bodies to interpret and apply it in a consistent, rational and technically informed manner. As documented in Part 10, Indian judicial engagement with valuation disputes is characterised by ad hoc decision-making, inconsistent focus on valuation methodology, and heavy reliance on expert opinion without clear criteria for its assessment. These deficiencies are not isolated occurrences but reflect an underlying mismatch between the technical demands of valuation and the institutional design of legal adjudication. Bridging this gap requires a shift away from discretionary, reactive adjudication towards a principled framework that enables courts and tribunals to engage with valuation disputes systematically and consistently.

A defining feature of current judicial practice is the absence of standardised tests for assessing valuation evidence. Courts commonly invoke broad standards such as fairness, reasonableness and the absence of arbitrariness without specifying how those standards should be operationalised. *Miheer H. Mafatlal v. Mafatlal Industries Ltd.* illustrates this pattern: the Court held that judicial review of corporate-scheme valuation is confined to whether the valuation is manifestly unfair or unreasonable, without articulating substantive guidance on how fairness should be assessed or how competing valuation methodologies should be evaluated. While this principle offers a measure of judicial restraint, it provides little substantive direction, and judicial reasoning in this area accordingly tends to operate at a high level of abstraction, permitting considerable discretion and variance.

Overreliance on expert evidence compounds this difficulty. Courts naturally defer to professional expertise when assessing valuation reports, but this deference is not structured by any consistent mechanism for evaluating the credibility or applicability of the expert evidence presented. In some instances, valuation reports are accepted with limited scrutiny; in others, courts reject valuation reports without clearly articulated reasons, or order fresh valuations without specifying the deficiencies that necessitated revaluation. This inconsistent practice reflects the absence of settled evidentiary principles governing valuation disputes, and it produces uncertainty and unreliability in adjudicatory outcomes.

Addressing these shortcomings requires the development of standardised judicial tests for assessing

valuation disputes, encompassing both procedural and substantive dimensions. Procedurally, courts should examine whether the valuation was conducted by a qualified and independent professional, in good faith, in accordance with recognised standards, and with adequate disclosure of underlying assumptions and methodology. Substantively, courts should assess the appropriateness of the methodology adopted, the rationality of the key assumptions employed, and the consistency of the resulting valuation with available market information. Adopting such tests would not eliminate judicial discretion, but would situate that discretion within a principled framework, promoting greater transparency and predictability in outcomes.

A complementary reform involves the development of best-practice guidelines for the assessment of valuation reports, whether through judicial precedent, practice direction, or legislative intervention. Such guidelines could specify the circumstances in which particular valuation techniques are preferred, the factors relevant to selecting discount rates or comparables, and the level of detail expected in valuation reports. By supplying a structured framework for the analysis of valuation evidence, such guidelines would narrow the scope for arbitrary decision-making and promote consistency across cases. Comparative experience from jurisdictions such as the United Kingdom and the United States illustrates the value of systematic judicial engagement with complex financial evidence, where courts have developed detailed protocols governing the assessment of expert evidence and valuation methodology.

A further reform priority is the institutionalisation of court-appointed neutral valuation experts. While Indian courts have occasionally appointed independent valuers where conflicting reports are presented, this practice remains informal and procedurally undeveloped. Systematic use of neutral experts, appointed by the court rather than nominated by the parties, would enhance the objectivity and credibility of valuation evidence, assisting courts in interpreting complex methodologies, evaluating conflicting reports, and identifying the material issues requiring determination. The effectiveness of this reform depends on establishing clear rules governing the selection, role and accountability of court-appointed experts, ensuring that they function as genuinely independent and transparent contributors to the adjudicatory process.²¹

12.4 Institutional Design: Creating a Coordinated Valuation Ecosystem

The organisational deficiencies identified in Part 10 -fragmentation, inconsistency and a lack of coordination -indicate that meaningful reform of valuation dispute resolution in India cannot be achieved through doctrinal or procedural change alone; it requires restructuring of the underlying institutional framework. Valuation is presently regulated by several distinct authorities -ICAI, the IBBI, SEBI, and the tax authorities operating under the Central Board of Direct Taxes -each possessing an independent statutory mandate and pursuing distinct objectives: accuracy of financial reporting, efficient resolution of insolvency, protection of investors, and revenue maximisation. While each of these objectives is individually legitimate, the absence of coordination among them produces a disjointed ecosystem, unstable valuation outcomes, and opportunities for regulatory arbitrage.

This institutional fragmentation operates at both substantive and procedural levels. Substantively, different regulators apply different standards, definitions and methodologies; procedurally, they impose differing requirements for documentation, disclosure and professional qualification. A valuation prepared under IBBI insolvency rules, for instance, may differ materially from a valuation prepared for a SEBI-regulated securities transaction or under the tax rules governing transfer pricing. This multiplicity not only confuses practitioners but increases the potential for dispute, as parties may exploit differences between regimes to support competing valuation claims -a classic instance, in institutional-design terms, of coordination failure, in which the absence of a central mechanism produces both inefficiency and inconsistency across the system.

One central reform proposal, in response to this challenge, is the establishment of a more coordinated regulatory mechanism, integrating the activity of existing institutions while respecting their individual statutory mandates. One potential model is the establishment of a common valuation authority or coordinating council, tasked with formulating and maintaining a unified set of valuation principles applicable across sectors. Such a nodal body could harmonise standards, provide interpretive guidance, and coordinate policy development among the various regulators; critically, it need not displace existing

institutions, but could instead function as a coordinating mechanism through which valuation-related regulation is elevated to a common, mutually agreed standard.

This centralised or coordinated approach draws support from comparative models of governance in which analogous mechanisms have addressed fragmentation within complex regulatory fields. International standard-setting bodies such as the IVSC, for example, provide a uniform standard that national regulators may adopt or adapt to promote cross-jurisdictional consistency. While the principle of central coordination is transferable to the Indian context, its implementation would require domestic adaptation: a valuation council could draw on the existing standards developed by ICAI and the IBBI, integrating them into a coherent structure acceptable across the various sectors of regulation that currently operate independently of one another.

A further important function of such an integrated ecosystem would be the formulation of harmonised guidelines applicable across sectors, establishing common principles governing definitions of value, methodological preference and disclosure requirements, while accommodating necessary sector-specific variation. Intangible-asset valuation in a corporate

²¹ Organisation for Economic Co-operation and Development, Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (2022).

merger, for example, may differ in emphasis from valuation conducted for tax purposes, but both could operate within a shared set of foundational principles, increasing the likelihood of converged outcomes. Cross-sectoral consistency would also be facilitated by such harmonised guidelines providing courts and tribunals with a consistent reference point in assessing valuation evidence, thereby directly addressing the adjudicatory inconsistency documented in Part 10.

12.5 Integrating Valuation Standards Within the Legal Framework

Reform of valuation dispute resolution in India requires not only the formulation of consistent standards and institutional coordination, but also their integration within the broader legal system. As established in preceding sections, the disjunction between valuation standards and the statutes governing corporate, securities and tax regulation is a principal cause of inconsistent valuation outcomes. Valuation standards presently function externally or supplementarily to the applicable statutes -technically sound, but not formally incorporated into the legal framework -a separation that permits selective and inconsistent interpretation, generating cross-sectoral inconsistency and opportunities for regulatory arbitrage. A central objective of reform should accordingly be the formal embedding of valuation standards within the legal framework, ensuring their consistent use and enforcement across regulatory spheres.

A foundational step in this direction is the adoption of a standard definition of “value” -or its functional equivalent -applicable across the relevant statutes. Different legal regimes presently apply distinct notions of value, including fair value under accounting rules and fair market value under tax law, each carrying different connotations and valuation approaches. This conceptual divergence produces genuine inconsistency, since the same asset may be valued differently under each regime. Standardising the definition of value, supported by a shared set of underlying principles, would establish a common benchmark of valuation applicable across legal domains. Such standardisation need not eliminate all differences, but should establish a foundational conceptual framework capable of accommodating context-specific regulatory objectives where genuinely necessary.

12.6 Sector-Specific Reform Strategies

Reform must also be sensitive to the distinct functions that valuation serves in the corporate/insolvency context, on the one hand, and the tax/transfer-pricing context, on the other, as documented in Part 10.6. In the corporate and insolvency sphere, where valuation disputes are chiefly concerned with fairness and equitable treatment of stakeholders, reform should focus on procedural safeguards -the systematic appointment of independent, court-supervised valuers, and clearer guidance on the circumstances warranting

reevaluation -rather than the imposition of a single prescribed methodology, given the genuine diversity of asset classes and transaction structures encountered in this context. In the tax and transfer-pricing sphere, by contrast, where the emphasis is properly on methodological precision and the prevention of abuse, reform should focus on aligning Rule 11UA and the transfer-pricing methodologies more closely with the fair-value principles embedded in Ind AS 113, reducing the scope for the same asset to receive materially different valuations depending solely on the regulatory lens applied to it.

12.7 Lessons from Comparative Practice

The comparative analysis in Part 11 offers several transferable lessons for Indian reform. First, the hierarchical structuring of the IFRS framework -Conceptual Framework, individual standards, and interpretive guidance -offers a template for organising Indian valuation standards in a manner that resolves ambiguity by reference to clearly ranked authority, rather than leaving courts to resolve conflicts on an ad hoc basis. Second, the widespread adoption and de facto authority of the IVS, achieved through professional consensus rather than uniform statutory mandate across jurisdictions, suggests that statutory codification in India need not be all-encompassing to be effective; a codified core, supplemented by professionally endorsed and consistently applied guidance, may achieve much of the same coordinating function. Third, the methodological discipline evident in international practice -particularly around discount-rate selection, comparability analysis and sensitivity disclosure -indicates specific, technically tractable areas in which Indian standards could be strengthened without requiring wholesale institutional redesign.

12.8 Implementation Challenges and Feasibility

Any reform agenda of this scope confronts genuine implementation challenges. Statutory codification of valuation standards requires legislative time and coordination across multiple ministries and regulators with potentially divergent institutional interests. The establishment of a coordinating valuation authority raises questions of institutional design -including its composition, its relationship to existing regulators, and the scope of its powers -that would require careful calibration to avoid simply adding a further layer of regulatory complexity rather than resolving the fragmentation this paper has identified. Judicial capacity-building, including specialised training and the possible development of dedicated valuation benches, requires sustained institutional investment over time. These implementation challenges do not, however, undermine the case for reform; they instead indicate that reform should proceed in a sequenced and prioritised manner, beginning with measures -such as statutory recognition of existing ICAI standards and the development of standardised judicial tests -that can be implemented with comparatively modest institutional disruption, while longer-term structural measures, such as the establishment of a coordinating valuation authority, are pursued in parallel.

13. FINDINGS AND DISCUSSION

This paper's doctrinal, evaluative and comparative analysis supports several interlocking findings.

First, the mapping exercise conducted in Part 9 confirms that IA valuation in Indian M&A is governed by at least five semi-autonomous frameworks -accounting standards, professional valuation standards, corporate law, securities regulation, and tax law -each with distinct definitions of value, distinct methodological preferences, and distinct enforcing institutions. No statutory rule of precedence exists to resolve conflicts between them. This confirms the premise of Hypothesis H1: regulatory multiplicity, unaccompanied by a coordinating hierarchy, is a structural feature of the Indian framework rather than an incidental complication.

Second, the evaluative analysis in Part 10 demonstrates that this multiplicity produces measurable adequacy deficits along the three benchmarks of consistency, predictability and methodological coherence. The evidence for this includes: persistently high rates of valuation-related litigation, particularly in transfer-pricing matters before the ITAT; a documented pattern of inconsistent outcomes between fairness-oriented

constitutional courts and methodology-focused specialised tribunals; and the frequent recourse to revaluation as a mode of dispute resolution, itself an implicit judicial acknowledgment that the initial valuation process is not reliably trusted. These findings corroborate H1's prediction that the absence of a coordinating hierarchy manifests in observable, adverse ways.

Third, the sectoral analysis in Part 10.6 establishes that valuation disputes are resolved according to markedly different logics depending on which regulatory sphere they arise in - fairness and equitable treatment in the corporate/insolvency sphere, and strict methodological compliance in the tax/transfer-pricing sphere -with no mechanism ensuring that these different logics converge on a coherent valuation of the same underlying asset where a single transaction touches both spheres.

Fourth, the organisational analysis in Part 10.8 identifies four specific structural causes of this inadequacy: fragmented regulatory architecture; the non-binding, soft-law character of professional valuation standards; limited judicial capacity to engage with technically complex valuation methodology; and the absence of coordination among the Ministry of Corporate Affairs, SEBI, the Central Board of Direct Taxes, and professional regulators. These findings substantiate Hypothesis H3: institutional coordination failure is an identifiable, independent contributor to uncertainty, distinct from substantive methodological disagreement.

Fifth, the comparative analysis in Part 11 demonstrates that the deficiencies identified in the Indian framework are not inherent to valuation as a discipline. International frameworks - IFRS, the IVS, and WIPO guidance -confront the same underlying subjectivity in valuing intangible assets, yet achieve materially greater consistency and predictability through explicit hierarchical structuring, professionally endorsed methodological discipline, and (in mature markets) richer comparable-transaction data. This finding supports Hypothesis H2: because the international comparators demonstrate that a more harmonised framework is achievable without eliminating professional judgment altogether, statutory recognition of a harmonised Indian framework is a realistic and potentially effective reform, rather than a purely aspirational one.

Sixth, and most significantly for the paper's overall argument, the reform analysis in Part 12 indicates that the deficiencies identified are substantially correctable through legal, regulatory, judicial and institutional reform, without requiring any fundamental reconceptualisation of valuation methodology itself. This finding is consistent with, and supports, all three hypotheses: the problem is structural (H1), a coordinated and statutorily recognised framework would plausibly reduce it (H2), and institutional coordination failure specifically - rather than mere methodological disagreement -is a distinct and addressable component of the problem (H3).

Taken together, these findings support this paper's central thesis: legal uncertainty in the valuation of intangible assets in Indian M&A is not the inevitable by-product of valuing assets that are inherently difficult to value. It is, to a substantial degree, the product of an institutional architecture that permits the same asset to be valued differently by different regulators and adjudicators, without any authoritative mechanism for reconciling the resulting divergence. That architecture is a matter of legal and institutional design, and it is, in principle, capable of being redesigned.

14. RECOMMENDATIONS

The discussion in this paper demonstrates that the weaknesses of the Indian IA valuation framework cannot be attributed to isolated doctrinal gaps, but reflect a whole-of-system problem of institutional, legal and regulatory fragmentation. Effective reform must accordingly be holistic and normative in orientation. This Part sets out concrete reform proposals organised at the legal, regulatory, judicial and professional-practice levels, directed at converting the current patchwork system into a coordinated and predictable framework.

14.1 Legal Reform

The most basic requirement at the legal-reform level is statutory recognition of valuation standards. As established throughout this paper, the standards presently developed by professional organisations -

principally ICAI and the IBBI -operate as soft law, lacking binding force in adjudicatory proceedings, a status that materially compromises their capacity to secure consistency and predictability. The recommended legislative solution is incorporation into the Companies Act, 2013, or the enactment of a dedicated valuation statute. Statutory recognition of this kind would confer additional normative force on these standards and would furnish courts and regulators with an authoritative reference point in resolving disputes.

Alongside statutory recognition, harmonisation across the major legislative frameworks -the Companies Act, SEBI's securities regulations, and the Income Tax Act -is essential. These frameworks presently employ distinct valuation terminology, including fair value, fair market value and transaction-specific pricing, without a developed common conceptual core. This divergence creates avenues for regulatory arbitrage and uneven outcomes. Harmonisation need not entail complete uniformity, but should establish a common conceptual centre through standardised definitions and cross-referencing of valuation principles across statutes, reducing interpretative ambiguity and promoting coherence in both transactional and adjudicative contexts.

14.2 Regulatory Reform

At the regulatory level, the establishment of a common valuation coordinating structure is necessary to address the institutional fragmentation identified in this paper. This could take the form of a central valuation council or coordinating body, comprising representatives of ICAI, the IBBI, SEBI and the tax authorities. Such a body would carry primary responsibility for promoting and maintaining harmonised valuation standards, issuing interpretive guidance, and fostering consistency in regulatory practice. Comparative experience indicates that centralised standard-setting bodies play a significant role in securing methodological discipline and institutional coordination, thereby enhancing the reliability of valuation outcomes.

Beyond institutional consolidation, ongoing coordination and information-sharing among regulators should be formalised -through common databases of valuation standards, standardised reporting formats, and structured consultation across regulatory jurisdictions. These mechanisms would improve the quality of valuation practice while reducing duplication and conflict across regulatory domains. Regulatory reform should also address the competence and independence of valuers directly, through improved accreditation standards, mandatory continuing education, and strengthened disciplinary oversight.

14.3 Judicial Reform

The third pillar of the recommended reform framework is judicial reform. The current adjudicatory approach to valuation disputes, as documented in Part 10, is characterised by discretion, inconsistency, and excessive, unstructured reliance on expert evidence. Addressing these concerns requires courts to adopt a systematic, principles-based approach to valuation disputes, including the formulation of standardised judicial tests for assessing the validity and reliability of valuation reports by reference to methodological soundness, the transparency of underlying assumptions, and compliance with recognised standards.

Clear rules governing the appointment and assessment of expert evidence are equally necessary. Judges should be encouraged to make greater use of neutral, court-appointed valuers, particularly in complex valuation disputes, reducing the adversarial dynamics associated with party-nominated experts. Procedural rules should require that experts disclose their methodologies, assumptions and data sources in a transparent and verifiable manner, improving the overall quality of valuation evidence placed before the court and supporting more defensible judicial decision-making.

Judicial capacity-building deserves comparable priority. Given the technical character of valuation, specialised training programmes and, potentially, dedicated benches or expert panels would better equip judges to engage substantively with valuation questions. Comparative jurisprudence suggests that specialised adjudicatory arrangements materially improve the consistency and quality of decision-making in technically complex fields, a lesson directly applicable to the Indian context.

Reform along these three pillars -legal, regulatory and judicial -should proceed in a coordinated rather than

piecemeal fashion. Isolated changes, whether new standards, regulatory guidelines, or individual judicial pronouncements, will not by themselves resolve the structural shortcomings identified in this paper. Harmonisation across legal frameworks, regulatory bodies and judicial practice is required to secure predictability and certainty in IA valuation.

14.4 Best-Practice Guidance for Valuers and Deal Counsel

While systemic reform is necessary, professional practice at the transactional level plays an equally important role in minimising valuation disputes in the interim. This section offers best-practice guidance to valuers and deal counsel directed at improving the quality, transparency and consistency of valuation procedures.

For valuers, the central recommendation is adherence to consistent, well-documented methodology. As this paper has demonstrated, methodological divergence is a principal source of dispute. Valuers should ensure that their methodologies align with recognised standards -those published by ICAI as well as relevant international frameworks -and that any departure from standard practice is clearly explained and justified. This includes the use of robust valuation models, well-supported data inputs, and sensitivity analysis that transparently accounts for underlying uncertainty.

Transparency is equally important. Valuation reports should comprehensively disclose assumptions, methodology and limitations, enabling users to assess the reliability of the report. This is especially critical in litigation, where the credibility of a valuation report is subject to close judicial scrutiny; clear and systematic reporting substantially enhances the evidentiary value of a report and reduces the scope for dispute by minimising ambiguity. Where feasible, valuers should also align their practice with internationally recognised methodologies; as global markets become increasingly interconnected, adherence to internationally recognised approaches enhances both the credibility and comparability of valuation outcomes, and requires sustained investment in continuing professional development, particularly in the valuation of intellectual property and in advanced financial modelling.

For deal counsel, the principal recommendation is proactive dispute management. This begins with the careful drafting of valuation-related terms in transactional documents -clearly articulating the applicable valuation standards, the procedures to be followed, and the mechanisms for resolving disagreement. Incorporating independent expert-determination or arbitration mechanisms into transaction documents offers an effective means of resolving valuation disputes without resort to litigation. Deal counsel should also ensure rigorous compliance with disclosure standards under corporate and securities law, since inadequate or ineffective disclosure is a principal driver of regulatory scrutiny and investor disputes; ensuring that valuation assumptions and methodology are transparently disclosed materially reduces the risk of post-transaction dispute.

Professional practice, in short, is not peripheral to the operation of the valuation system but central to it. Through the consistent application of the best practices outlined above, valuers and deal counsel can materially reduce the incidence of disputes and contribute to greater certainty in IA valuation, pending the fuller structural reform recommended above.

14.5 Policy Implications and Broader Impact

Reform of the IA valuation system carries significant consequences for the broader legal and economic framework within which Indian M&A activity occurs. A competent and consistent valuation regime strengthens investor confidence by reducing uncertainty and enhancing the credibility of financial information, in turn supporting more efficient capital allocation and stronger capital-market performance.

From a corporate-governance perspective, greater consistency in valuation enhances transparency and accountability, particularly in the context of acquisitions, mergers and related-party transactions, reducing the scope for opportunistic behaviour and better protecting minority shareholders. A properly integrated valuation framework also contributes to the ease of doing business in India, lowering transaction costs and facilitating economic activity by reducing the incidence of disputes and simplifying regulatory compliance.

Valuation reform, in this sense, is not a narrow technical concern but a significant lever within India's broader regulatory and economic policy, with implications extending well beyond the immediate interests of transaction parties.

15. LIMITATIONS OF THE STUDY

This study is subject to certain limitations that should be borne in mind in assessing its conclusions. First, it is principally a doctrinal and comparative analysis rather than an empirical one. While this approach is well suited to identifying structural gaps and proposing reform, it does not capture the full range of practical difficulties encountered by stakeholders navigating valuation disputes in real transactions.

Second, the study draws on a selected body of case law and regulatory literature that, while chosen for its illustrative significance, is not necessarily representative of the full diversity of valuation disputes across sectors and contexts. Although considerable care has been taken to ensure the analysis is comprehensive and representative of the principal patterns in Indian valuation practice, additional empirical research would be required to test, refine and, where necessary, qualify the conclusions reached here.

Notwithstanding these limitations, this paper offers a systematic analytical framework for understanding the legal uncertainty and regulatory overlap that characterise IA valuation in India, and provides a foundation for both future research and near-term policy reform.

16. DIRECTIONS FOR FUTURE RESEARCH

The findings of this paper suggest several directions for future research. Empirical analysis of valuation disputes -examining their frequency, duration and outcomes across sectors - represents an important avenue, one that would supply the evidentiary foundation currently missing from doctrinal accounts of this kind, and would allow the structural findings advanced here to be tested against a systematically compiled body of case data.

The development of industry-specific valuation models constitutes a further area warranting attention, particularly in fields where existing standards remain comparatively underdeveloped, such as intellectual property in the digital and technology sectors and, more broadly, digital and data-driven assets whose valuation characteristics differ materially from those of traditional intangible-asset categories. The behavioural dimensions of valuation - including the cognitive biases and professional incentives that shape valuer judgment in practice -also merit further scholarly attention, situated at the intersection of law, finance and behavioural economics.

These avenues collectively underscore that intangible-asset valuation is an inherently interdisciplinary field, and that future research at the nexus of law, finance and economics is necessary to build on the doctrinal and comparative foundation this paper has established.

17. CONCLUSION

This paper has examined the legal uncertainty and regulatory overlap that characterise the valuation of intangible assets in Indian mergers and acquisitions, situated within the wider context of India's intellectual property and corporate valuation regime. It has shown, through doctrinal mapping, evaluative critique and comparative assessment, that the Indian framework for IA valuation is defined by structural fragmentation across accounting, professional, statutory and regulatory dimensions -fragmentation that materially affects the reliability of valuation outcomes, the burden of regulatory compliance, and the incidence of litigation.

The paper's central argument -that this fragmentation is a structural rather than incidental feature of the Indian system -has been substantiated across three interlocking lines of analysis. The doctrinal mapping in

Part 9 demonstrated that Ind AS, ICAI's valuation standards, the Companies Act framework, SEBI's disclosure regime and the tax authorities' practice each approach the valuation of intangible assets from a distinct conceptual and institutional vantage point, without any statutory rule of precedence to govern conflicts between them. The evaluative analysis in Part 10 demonstrated that this fragmentation translates into measurable adequacy deficits -persistent litigation, inconsistent adjudicatory outcomes, and recurrent recourse to revaluation -that existing valuation standards and judicial doctrine have proven unable to resolve. The comparative analysis in Part 11 demonstrated that these deficiencies are not inherent to the challenge of valuing intangible assets as such, since comparable international frameworks confront the same underlying subjectivity while achieving materially greater consistency through explicit hierarchical structuring and stronger methodological discipline -a finding that identifies the Indian deficiencies as substantially attributable to correctable features of institutional design.

On this foundation, the paper has proposed a reform agenda addressing valuation standards, judicial adjudication, institutional coordination, and professional practice. The core prescription is that valuation standards presently operating as soft law should be given statutory recognition and organised within an explicit hierarchy; that courts should develop standardised, principled tests for assessing valuation evidence rather than relying on open-ended notions of fairness and reasonableness; that a coordinating institutional mechanism should be established to harmonise the practice of India's several valuation-related regulators; and that valuers and deal counsel should, in the interim, adopt more rigorous, transparent and internationally aligned practices capable of narrowing the scope for dispute even before structural reform is achieved.

The attainment of greater certainty in intangible-asset valuation is not merely a technical objective; it is a foundational requirement of a coherent and effective legal and economic system, bearing directly on investor confidence, corporate governance, tax compliance, and the overall efficiency of India's M&A market. The way forward, as this paper has sought to demonstrate, lies in the coordinated harmonisation of legal, regulatory and professional structures -not in the further, incremental refinement of any single component of the existing patchwork in isolation. Only through such coordinated reform can India's IA valuation regime evolve from a fragmented and unpredictable landscape into one capable of delivering the certainty, consistency and equity that both transaction parties and the broader capital market require.

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