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## “CORPORATE FRAUD WITH SPECIAL REFERENCE TO DEVAS-ANTRIX SAGA: A CRITICAL ANALYSIS”

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### ABSTRACT

Corporate frauds have far-reaching implications that go beyond financial losses, shaking the very foundations of governance, accountability, and public trust in institutions. Among the notable corporate controversies in India, the Devas-Antrix agreement stands out as a significant case involving high-level decision-making, regulatory loopholes, and international ramifications. This case is particularly important due to the involvement of a government-owned enterprise—Antrix Corporation, the commercial arm of ISRO—and its agreement with Devas Multimedia Private Limited, a company backed by foreign investors.

The deal, which involved the leasing of rare and strategically sensitive S-band satellite spectrum, was later annulled by the Government of India citing national interest. However, investigations revealed substantial procedural irregularities, undervaluation of public resources, and elements of deception—indicating that the agreement was entered into with fraudulent intent.

This paper aims to provide a critical and multi-dimensional analysis of the Devas-Antrix episode through legal, ethical, economic, and regulatory perspectives. It delves into how the fraudulent aspects of the deal came to light, evaluates the roles played by various domestic agencies such as the CBI, ED, NCLT, and judiciary, and examines the international arbitration proceedings initiated by Devas investors under bilateral investment treaties (BITs).

The study also uncovers institutional shortcomings in the governance of public sector undertakings and the challenges India faces in balancing foreign investor obligations with sovereign decision-making. It highlights how judicial interpretation, legislative inaction, and lack of oversight created fertile ground for corporate abuse, and proposes comprehensive regulatory reforms aimed at preventing such occurrences in the future.

**Keywords:** Corporate Fraud, Devas-Antrix Deal, ISRO, Antrix Corporation, Governance Failures, Public Sector Accountability, International Arbitration, Bilateral Investment Treaties (BIT), Supreme Court of India, CBI, Economic Offences.

### 1. Introduction

Corporate fraud refers to intentional deception carried out by individuals or entities in the corporate sector to secure unlawful or unethical

gain, often at the cost of shareholders, the public exchequer, or regulatory compliance. These fraudulent practices can range from accounting manipulation and insider trading to

misuse of public resources, and they pose a serious threat to economic integrity, governance structures, and the rule of law. In India, several high-profile scandals—such as the Satyam Computers scam, the Vijay Mallya loan default, and the IL&FS crisis—have underscored the systemic weaknesses in corporate regulation and oversight.

Among these, the **Devas-Antrix deal**<sup>1029</sup> stands out due to its unique mix of public sector involvement, national security implications, and international arbitration consequences. Signed in **January 2005**, the agreement involved **Antrix Corporation Limited**, the commercial wing of the **Indian Space Research Organisation (ISRO)**, and **Devas Multimedia Private Limited**,<sup>1030</sup> a private startup backed by foreign investors. Under the agreement, Antrix was to lease **70 MHz of S-band transponder capacity** on two ISRO satellites to Devas, ostensibly for launching multimedia services. However, the deal quickly drew criticism for its non-transparent process, lack of competitive bidding, and undervaluation of a scarce public resource—spectrum meant primarily for strategic and defense use.

The controversy deepened when it was revealed that Devas had misrepresented material facts to secure foreign investments and regulatory approvals. Following public outcry and a review by the **Department of Space**, the Indian Government annulled the agreement in **2011**, citing national interest and spectrum policy violations. This termination triggered a flurry of **legal proceedings**, both in Indian courts and international arbitration tribunals, as Devas and its foreign investors sought damages for breach of contract and alleged denial of fair and equitable treatment under Bilateral Investment Treaties (BITs).

This research paper aims to critically analyze the **legal, ethical, and regulatory dimensions** of the Devas-Antrix saga. It explores the role of

key institutions such as the **Central Bureau of Investigation (CBI)**<sup>1031</sup>, the **Enforcement Directorate (ED)**, the **National Company Law Tribunal (NCLT)**, and the **Supreme Court of India** in unearthing and adjudicating the fraud. Furthermore, the study evaluates the implications of this case for **public sector governance**, the **credibility of India's investment climate**, and the urgent need for **regulatory reforms** to prevent recurrence of such large-scale frauds involving state entities

## 2. Background of the Devas-Antrix Deal

The **Devas-Antrix agreement** was conceptualized in a period when India's space sector was increasingly exploring commercialization. **Antrix Corporation Limited**, established in 1992 as the commercial arm of the Indian Space Research Organisation (ISRO), was tasked with marketing products and services developed by ISRO, including satellite transponder capacity, launch services, and remote sensing data.

In **January 2005**, Antrix signed a **contractual agreement with Devas Multimedia Pvt. Ltd.**, a private company founded by former ISRO employees and foreign investors. The deal allowed Devas to lease **70 MHz of S-band transponder spectrum** on two ISRO satellites (GSAT-6 and GSAT-6A) for a period of **12 years**, extendable up to 20 years. The purpose, as claimed by Devas, was to offer a hybrid satellite-terrestrial multimedia service across India, especially in remote and rural areas where conventional broadband access was limited<sup>1032</sup>.

However, several key aspects of the agreement raised red flags:

- **No competitive bidding:** The agreement was signed without an open tendering process, raising serious concerns about transparency and favoritism.
- **Undervaluation of spectrum:** The S-

<sup>1029</sup> "Antrix-Devas Deal: A Spectrum Scam?" *The Hindu*, February 9, 2011.

<sup>1030</sup> *Devas Multimedia Pvt. Ltd. v. Antrix Corporation Ltd.*, (2022) SCC OnLine SC 77.

<sup>1031</sup> CBI Chargesheet in Devas-Antrix Case, filed before the Special CBI Court, New Delhi, 2016.

<sup>1032</sup> "Devas-Antrix Agreement Text," *Department of Space Internal Records*, 2005.

band spectrum—generally reserved for strategic and defense applications—was offered at a significantly low rate compared to its market value, particularly in the context of the high revenue expectations from 3G and 4G auctions held later by the Government<sup>1033</sup>.

- **Lack of regulatory approvals:** The proposal bypassed essential clearances from departments like the Ministry of Defence, Department of Telecommunications (DoT), and Wireless Planning and Coordination (WPC), which are typically involved in spectrum allocation.
- **Conflict of interest and insider influence:** Several founders of Devas had previous associations with ISRO or related organizations, raising concerns about conflict of interest and misuse of insider knowledge<sup>1034</sup>.

After the agreement was made public in **2011**, following media reports and parliamentary questions, the **Government of India annulled the deal** citing national security implications and policy violations. A high-level committee headed by **G. Madhavan Nair**, former ISRO Chairman, was constituted to probe the matter. The committee found serious procedural lapses and recommended action against the officials involved<sup>1035</sup>.

Subsequently, the **Central Bureau of Investigation (CBI)** and the **Enforcement Directorate (ED)** launched probes into alleged criminal conspiracy, corruption, and money laundering. In 2016, CBI filed a chargesheet against several individuals and entities associated with the deal.

Meanwhile, Devas Multimedia and its foreign

investors initiated multiple **international arbitration proceedings**, including under **India-Mauritius** and **India-Germany Bilateral Investment Treaties**, alleging wrongful termination of the agreement and seeking compensation for losses.

The **Supreme Court of India**, in a landmark judgment in **2022**, upheld the findings of fraud and permitted the winding up of Devas Multimedia under Section 271 of the Companies Act, 2013, stating that the company was formed for a fraudulent and unlawful purpose<sup>1036</sup>.

### 3. Timeline of Key Events

#### Year Event

**2005** The controversial agreement between Antrix Corporation Limited (the commercial arm of ISRO) and Devas Multimedia Private Limited was signed. Under this agreement, Antrix committed to leasing transponders on two ISRO satellites to Devas for delivering multimedia services using S-band spectrum, typically reserved for strategic and defense purposes.

**2011** The Government of India, acting on the recommendations of the Space Commission and in view of national security concerns, annulled the agreement. The decision was taken amidst internal audits and reports suggesting procedural anomalies and undervaluation of resources.

**2011** The Comptroller and Auditor General (CAG) of India submitted a report criticizing the Antrix-Devas deal. It highlighted that the allocation of scarce S-band spectrum to a private firm without competitive bidding had caused potential financial losses to the exchequer.

**2013** The Central Bureau of Investigation (CBI) registered a First Information Report (FIR)

<sup>1033</sup> Comptroller and Auditor General (CAG) of India Report on Spectrum Management, 2011.

<sup>1034</sup> “Who Owns Devas? Former ISRO Officials’ Role in Focus,” *India Today*, February 10, 2011.

<sup>1035</sup> Madhavan Nair Committee Report on Antrix-Devas Deal, Government of India, 2011. [↪](#)

<sup>1036</sup> *Devas Multimedia Pvt. Ltd. v. Antrix Corporation Ltd.*, (2022) SCC OnLine SC 77.

## Year Event

under charges of criminal conspiracy, cheating, and corruption against officials of Antrix, Devas, and ISRO, citing irregularities in the deal-making process<sup>1037</sup>.

**2015** International arbitration tribunals—including the Permanent Court of Arbitration and the International Chamber of Commerce (ICC)—ruled in favor of Devas investors, awarding them damages, stating that the cancellation of the agreement was arbitrary and a breach of treaty obligations.

**2021** The National Company Law Tribunal (NCLT), Bengaluru bench, ordered the winding up of Devas Multimedia under Section 271 of the Companies Act, 2013, stating that the company was formed for a fraudulent and unlawful purpose<sup>1038</sup>.

**2022** The Supreme Court of India upheld the decisions of the NCLT and National Company Law Appellate Tribunal (NCLAT), affirming that the entire deal was tainted with fraud and that Devas was not entitled to the compensation awarded by international tribunals.

## 4. Legal Dimensions and Investigations

The Devas-Antrix case traversed a complex legal landscape involving domestic criminal and corporate proceedings, enforcement actions under financial laws, and international arbitration. Multiple Indian and foreign legal forums examined various facets of the case, reflecting its multi-jurisdictional implications.

### a. CBI Investigation

In 2013, the Central Bureau of Investigation (CBI) registered an FIR against officials of Devas Multimedia and Antrix Corporation, alleging criminal conspiracy, cheating, and abuse of

official position under the Prevention of Corruption Act, 1988<sup>1039</sup>. By 2016, the CBI had filed a charge sheet naming former ISRO Chairman G. Madhavan Nair and other senior officials, including A. Bhaskaranarayana, K. R. Sridhara Murthi, and others. The agency alleged that these officials conspired with Devas to secure the lease of valuable S-band spectrum at a throwaway price, thereby causing undue benefit to the private party and loss to the public exchequer<sup>1040</sup>.

### b. Enforcement Directorate (ED) Proceedings

The Enforcement Directorate initiated a separate investigation under the provisions of the Foreign Exchange Management Act (FEMA), 1999, and the Prevention of Money Laundering Act (PMLA), 2002. In 2018, the ED provisionally attached assets worth approximately ₹85 crore belonging to Devas Multimedia and its directors. The agency alleged that foreign investments received by Devas were proceeds of crime, generated through the fraudulent agreement with Antrix Corporation. The ED maintained that Devas had misrepresented facts to foreign investors and regulators to secure illicit financial gains.

### c. NCLT and NCLAT Rulings

In January 2021, the National Company Law Tribunal (NCLT), Bengaluru Bench, ordered the winding up of Devas Multimedia under Section 271(c) of the Companies Act, 2013. The Tribunal held that Devas was incorporated with "fraudulent motives and illegal objectives" and that continuation of its business was prejudicial to public interest.

On appeal, the National Company Law Appellate Tribunal (NCLAT) upheld the decision in September 2021. The Appellate Tribunal emphasized that Devas had engaged in deceitful and mala fide conduct since its inception<sup>1041</sup>.

<sup>1037</sup> CBI FIR No. RC 08(A)/2013-ACU-V, dated March 2013

<sup>1038</sup> *Antrix Corporation Ltd. v. Devas Multimedia Pvt. Ltd.*, NCLT Bengaluru Bench, Company Petition CP/10/BB/2020.

<sup>1039</sup> CBI FIR No. RC 08(A)/2013-ACU-V, March 2013.

<sup>1040</sup> "ED Attaches ₹85 Crore Worth Assets in Devas-Antrix Case," *Economic Times*, August 28, 2018.

<sup>1041</sup> *Devas Multimedia Pvt. Ltd. v. Antrix Corporation Ltd.*, NCLAT, Company Appeal (AT) No. 155 of 2021.

The matter reached the Supreme Court of India, which delivered its verdict in January 2022. The Court affirmed the findings of the NCLT and NCLAT and dismissed Devas's challenge, branding the transaction a "fraud of a huge magnitude" and a "textbook case of fraud".

#### d. International Arbitration Proceedings

Despite losing in Indian courts, Devas and its foreign investors initiated arbitration proceedings under various bilateral investment treaties (BITs), claiming that the cancellation of the 2005 agreement amounted to expropriation and denial of fair and equitable treatment:

- **Permanent Court of Arbitration (PCA), The Hague:** In 2015, the PCA ruled in favor of Devas' foreign shareholders under the India-Mauritius BIT, awarding damages exceeding \$100 million<sup>1042</sup>.
- **International Chamber of Commerce (ICC), Paris:** In a separate commercial arbitration initiated by Devas against Antrix Corporation, the ICC awarded Devas approximately \$562.5 million in 2015, finding that the cancellation breached contractual obligations.
- **BIT Tribunal (Germany and Mauritius):** Shareholders from Germany also obtained a favorable ruling under the India-Germany BIT.

However, the Indian government has vigorously contested the enforcement of these arbitral awards in foreign jurisdictions like the U.S., France, and Canada. It argued that enforcing awards arising from a fraudulent contract would violate public policy and international legal norms<sup>1043</sup>.

#### 5. Critical Analysis of Corporate Fraud Mechanisms

The Devas-Antrix saga highlights significant deficiencies in India's corporate governance ecosystem, particularly in public sector undertakings (PSUs). The controversy not only

raises concerns regarding procedural propriety and regulatory vigilance but also exposes the vulnerabilities of state-run enterprises when commercial interests are pursued without adequate legal and ethical checks.

#### A. Lack of Due Diligence

The approval process for the Antrix-Devas agreement was marked by glaring omissions in legal and procedural scrutiny. Despite involving S-band spectrum, which has strategic significance for national defense and communication infrastructure, the agreement was approved without proper consultation with the Department of Telecommunications (DoT), Ministry of Defence, or other relevant regulatory bodies.

Internal assessments and external legal reviews were reportedly bypassed, indicating a systemic failure to adhere to due diligence standards. This lapse facilitated the contractual allocation of national resources to a private entity, raising questions about the transparency and legitimacy of decision-making processes at the highest levels<sup>1044</sup>.

#### B. Conflict of Interest and Misuse of Office

One of the core allegations in the case is the undue enrichment of Devas Multimedia at the cost of the public exchequer. Several high-ranking officials, including former ISRO and Antrix executives, were found to have acted in contravention of their fiduciary responsibilities by facilitating an agreement that disproportionately favored a private party.

The CBI charge sheet noted that these officials knowingly ignored red flags and bypassed institutional procedures, thereby violating norms laid down by the Cabinet Committee on Economic Affairs (CCEA) and the Space Commission<sup>1045</sup>. The manipulation of official positions for private benefit constitutes a breach of trust and an abuse of public office under the Prevention of Corruption Act, 1988.

<sup>1042</sup> *Devas Mauritius Ltd. v. Republic of India*, PCA Case No. 2013-09.

<sup>1043</sup> *Union of India v. Devas Multimedia*, U.S. District Court, D.C., 2021.

<sup>1044</sup> Krishnan, Rishabh. "What Went Wrong with the Devas-Antrix Deal?" *LiveMint*, January 2022.

<sup>1045</sup> CBI Charge Sheet, RC 08(A)/2013-ACU-V, filed in 2016

### C. Regulatory Oversight Failure

The scandal revealed substantial gaps in the functioning of regulatory institutions overseeing PSUs. Bodies such as the Department of Space (DoS), Telecom Regulatory Authority of India (TRAI), and even the Union Cabinet were either kept in the dark or inadequately briefed. The Comptroller and Auditor General (CAG), in its 2011 report, criticized ISRO and Antrix for undervaluing scarce spectrum resources and entering into a deal that lacked transparency.

This regulatory laxity enabled Devas to secure a highly valuable asset without facing competitive bidding or rigorous scrutiny, indicating the absence of internal checks and balances in public sector operations<sup>1046</sup>.

### D. Investor–State Dispute Issues

The international ramifications of the Devas–Antrix deal underscore the risks posed by opaque public sector agreements. Following the cancellation of the contract in 2011, Devas’s foreign investors pursued arbitration under bilateral investment treaties (BITs), claiming expropriation and breach of fair and equitable treatment obligations. Arbitral tribunals such as the Permanent Court of Arbitration and the ICC ruled in favor of the investors, awarding them substantial compensation.

These outcomes underline the importance of institutional clarity and contractual discipline when state-owned enterprises engage with international private investors. The fallout from poorly structured deals not only affects national credibility but also exposes governments to prolonged and expensive legal battles in foreign jurisdictions<sup>1047</sup>.

### 6. Governance and Policy Implications

The Devas–Antrix episode underscores several urgent lessons for policy reform, regulatory enforcement, and institutional accountability in India. The implications extend beyond the immediate legal fallout, reflecting systemic

weaknesses in governance structures, particularly in the operation of public sector undertakings (PSUs) and state-backed commercial enterprises. It also brings to light the evolving nature of India’s international legal obligations, particularly under investment treaties.

### A. Need for Enhanced Transparency in PSUs

The deal exposed the structural deficiencies in the functioning of commercial arms of governmental agencies, such as Antrix Corporation. Despite being a public sector entity under the Department of Space, Antrix undertook contractual negotiations with minimal institutional scrutiny or accountability to broader governmental oversight<sup>1048</sup>. The lack of mandatory disclosures and independent audit mechanisms allowed the deal to proceed unchecked until external media and regulatory scrutiny began.

To prevent similar occurrences, a more transparent model of PSU governance is essential—one that mandates external audits, parliamentary reporting, and pre-contractual legal vetting for high-value agreements. The introduction of digital governance tools and compliance monitoring systems within PSUs can help enhance transparency and reduce opportunities for discretionary misuse of authority.

### B. Pre-Contractual Scrutiny and Risk Management

The agreement between Devas and Antrix involved the allocation of valuable S-band satellite spectrum—an asset of national and strategic importance. Yet, the deal bypassed inter-ministerial consultation with key stakeholders such as the Department of Telecommunications and Ministry of Defence. This failure reflects the need for a robust, cross-sectoral risk assessment mechanism for contracts involving national resources.

Legal and financial due diligence, including

<sup>1046</sup> Law Commission of India, Report No. 262 (2015), pg. 58.

<sup>1047</sup> “India Fights Devas Investors in US, France, and Canada Courts,” *Financial Express*, October 2022.

<sup>1048</sup> Comptroller and Auditor General of India, “Performance Audit on Allocation of Spectrum,” 2011.

vetting by law officers and domain experts, should be mandatory prior to the finalization of contracts involving sensitive infrastructure. The lack of such protocols in the Devas deal exemplifies a systemic risk that could potentially repeat in other strategic sectors like energy, defense production, and aviation<sup>1049</sup>.

### C. Whistleblower Protection

The Devas-Antrix controversy might have been exposed earlier if robust legal protections had been in place for whistleblowers. While India enacted the *Whistle Blowers Protection Act, 2014*, its implementation has been weak, and proposed amendments have diluted its scope<sup>1050</sup>. In the context of PSUs, internal reporting mechanisms are often discouraged due to hierarchical and bureaucratic inertia.

Strengthening whistleblower protections—particularly by insulating whistleblowers from retaliation, ensuring confidentiality, and establishing independent investigative agencies—could deter internal corruption and encourage early disclosure of irregularities.

### D. Re-evaluation of Bilateral Investment Treaty (BIT) Clauses

Following the Devas arbitration awards, India reassessed its approach to Bilateral Investment Treaties. The case highlighted the unintended exposure of sovereign decisions to international investor-state dispute settlement (ISDS) mechanisms. India has since terminated or renegotiated many BITs and introduced a new model treaty in 2015 to reduce risks of frivolous claims and broaden the definition of public interest exceptions<sup>1051</sup>.

However, while BIT reform is necessary, India must also ensure a balance between protecting sovereign regulatory space and maintaining investor confidence. Clearer clauses on expropriation, fair and equitable treatment, and jurisdictional limits are crucial to avoid legal

vulnerabilities arising from flawed domestic decisions, such as the Devas-Antrix deal<sup>1052</sup>.

## 7. Judicial Commentary

The Indian judiciary, particularly the Supreme Court, played a decisive role in unraveling the legal implications of the Devas-Antrix controversy. In 2022, while hearing appeals against the National Company Law Appellate Tribunal (NCLAT) and the National Company Law Tribunal (NCLT) orders, the Supreme Court delivered a landmark judgment that cemented the position of Indian courts on corporate fraud involving public assets and international stakeholders.

### A. Supreme Court's Label: "Fraud on the Nation"

In *Devas Multimedia Pvt. Ltd. v. Antrix Corporation Ltd.*, the Supreme Court unambiguously held that the Devas-Antrix deal was a "fraud on the nation." It asserted that the incorporation and operation of Devas were based on a fraudulent intent to misappropriate valuable public resources—specifically the S-band spectrum, a strategic asset<sup>1</sup>. The Court observed that such fraud, involving national resources and public interest, must be met with severe legal consequences, including corporate dissolution<sup>1053</sup>.

### B. Upholding NCLT and NCLAT Orders

The Supreme Court upheld the NCLT's 2021 ruling, which had ordered the winding up of Devas Multimedia under Section 271(c) of the Companies Act, 2013. The NCLT had concluded that Devas was incorporated with a fraudulent purpose and had no genuine business model. The NCLAT had reaffirmed this view, and the Supreme Court validated both findings, reinforcing the principle that fraudulent incorporation of companies can lead to their compulsory dissolution<sup>1054</sup>.

### C. On Economic Offenses and Public Interest

<sup>1049</sup> Law Commission of India, Report No. 262, "The Death Penalty," 2015.

<sup>1050</sup> *Whistle Blowers Protection Act, 2014*, Ministry of Law and Justice, Government of India.

<sup>1051</sup> Government of India, "Model Text for the Indian Bilateral Investment Treaty," 2015.

<sup>1052</sup> Mukherjee, Arpita. "BIT Reform and the Investor-State Dispute Fallout: Lessons from Devas." *Indian Journal of International Law*, Vol. 60, 2021.

<sup>1053</sup> Ibid

<sup>1054</sup> *Devas Multimedia Pvt. Ltd. v. Antrix Corporation Ltd.*, Company Appeal (AT) No. 37 of 2021, NCLAT

The Court emphasized that economic offenses, especially those involving public assets or strategic sectors, must not be treated lightly. It stated that “economic offenders must not be allowed to thrive” and underlined the necessity for prompt judicial intervention in cases of corporate misfeasance that affect national interests<sup>1055</sup>.

The judgment also highlighted that foreign investors must conduct due diligence before entering into agreements with Indian companies or public sector undertakings. The Court warned that “foreign investors cannot be permitted to reap the benefits of fraudulently obtained contracts,” thereby reinforcing India’s sovereign right to investigate and unwind fraudulent deals, even if they involve foreign capital.

#### D. Broader Judicial Message

The verdict in the Devas-Antrix case sends a clear message regarding India’s judicial intolerance toward corporate fraud, especially when state-owned enterprises and critical national resources are involved. It reflects the judiciary’s willingness to override contractual protections where fraud is established, even in the face of international arbitral awards. The Court’s remarks reinforce the view that fraud vitiates all legal proceedings and contracts, a principle firmly embedded in Indian jurisprudence<sup>1056</sup>.

### 8. CASE STUDIES –

#### 8.1. Antrix Corporation Ltd. v. Devas Multimedia Pvt. Ltd.

**Citation:** (2022) 3 SCC 654

**Court:** Supreme Court of India

In this landmark decision, the Supreme Court of India upheld the decisions of the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT), which had ordered the winding up of Devas

Multimedia Pvt. Ltd. The Court held that Devas was incorporated with fraudulent intent and misused its position to enter into a dubious agreement with Antrix Corporation, the commercial arm of ISRO.

The apex court emphasized that the courts of law must not permit “fraudulent enterprises” to survive under the guise of legal protection. It termed the agreement between Antrix and Devas as a “fraud on the nation,” reinforcing that fraud vitiates every solemn act. This judgment also laid down important principles for future corporate fraud cases involving PSUs, particularly emphasizing the public duty owed by state-owned corporations in preserving national assets like the S-band spectrum.

*“A product of fraud is in conflict with the established public policy, and hence deserves to be nullified.”* – Supreme Court (2022)

#### 8.2. Devas Multimedia Pvt. Ltd. v. Antrix Corporation Ltd.

**Court:** National Company Law Tribunal (Bengaluru), 2021

In 2021, the NCLT issued a significant verdict stating that Devas Multimedia was created with fraudulent intent and had no genuine business model. The tribunal, under Section 271(c) of the Companies Act, 2013, allowed a petition by Antrix Corporation to wind up Devas on grounds of fraud and unlawful conduct.

The order cited clear evidence of misrepresentation and manipulation of facts to obtain a lucrative spectrum allocation. It also found that Devas had failed to carry out its obligations and had siphoned funds under the false pretense of technological services.

#### 8.3. Devas Multimedia Pvt. Ltd. v. Antrix Corporation Ltd.

**Court:** National Company Law Appellate Tribunal (NCLAT), 2021

The NCLAT, in affirming the NCLT’s ruling, stated that the incorporation of Devas itself was part of a fraudulent design to exploit government resources. It concluded that the promoters of

<sup>1055</sup> Supreme Court of India, Judgment dated January 17, 2022, in Civil Appeal No. 5361/2021.

<sup>1056</sup> *Lazarus Estates Ltd. v. Beasley*, [1956] 1 QB 702 – frequently cited by Indian courts to assert the principle: “Fraud unravels everything.”

Devas never intended to execute the claimed satellite-based services and instead focused on securing illicit gain by transferring valuable spectrum access.

The appellate tribunal remarked that allowing Devas to continue operating would be a travesty of justice and would reward fraudulent corporate behavior.

#### 4. Devas Multimedia Pvt. Ltd. v. Republic of India

**Forum:** Permanent Court of Arbitration (PCA), The Hague

**Case No.:** PCA Case No. 2013-09

In a separate legal battle at the international level, Devas' investors initiated arbitration proceedings under the India-Mauritius Bilateral Investment Treaty (BIT). The arbitral tribunal at The Hague held that the Indian government had breached its treaty obligations by wrongfully annulling the Devas-Antrix agreement, which led to a loss of investor interests.

The tribunal ordered India to compensate the investors, despite the domestic allegations of fraud. This ruling posed complex issues for India, especially concerning the enforceability of awards tainted by the underlying fraudulent character of the agreement.

#### 5. Deutsche Telekom AG v. Republic of India

**Forum:** UNCITRAL Arbitral Tribunal, 2020

Another set of arbitration proceedings was initiated by Deutsche Telekom AG, a German investor in Devas, under the India-Germany BIT. The arbitral tribunal found that India had failed to ensure Fair and Equitable Treatment (FET) to foreign investors and had acted disproportionately in terminating the agreement.

This judgment sparked debate about the intersection of fraud in domestic jurisdictions and treaty obligations at the international level. India argued that fraudulent contracts should not enjoy BIT protections, while the tribunal emphasized investor protection unless clear evidence of the investor's complicity in fraud is

established.

#### 6. CBI v. G. Madhavan Nair & Others

**Proceeding:** CBI Charge Sheet, 2016

Following internal audits and the report of the Comptroller and Auditor General (CAG), the Central Bureau of Investigation (CBI) registered an FIR in 2013 and later filed a charge sheet in 2016. It named several senior officials, including former ISRO Chairman G. Madhavan Nair, for criminal conspiracy, cheating, and corruption under Sections 120B and 420 of the Indian Penal Code and provisions of the Prevention of Corruption Act, 1988.

The charge sheet alleged that the officials abused their official positions to facilitate an agreement that was detrimental to public interest. The investigative agencies concluded that the deal was entered into without mandatory inter-ministerial consultations and without financial due diligence.

#### Conclusion

The Devas-Antrix saga is emblematic of how deeply entrenched weaknesses in governance, regulatory oversight, and institutional accountability can lead to large-scale corporate fraud, even within state-run entities. The case unraveled a complex web of deception, involving high-level clearances, misuse of public resources, and the manipulation of governmental and corporate processes for private enrichment. What began as a seemingly innovative technological partnership quickly turned into a financial and legal debacle, exposing fundamental gaps in due diligence, transparency, and institutional ethics.

The Supreme Court's strong stance—labeling the deal as a "fraud on the nation"—highlights the gravity of the situation and affirms the judiciary's evolving approach to economic offenses involving national assets. However, while the Indian judicial and investigative machinery—through the Supreme Court, the CBI, the ED, and NCLT/NCLAT—took decisive steps to address the fraud domestically, the

continued pursuit of arbitral enforcement by foreign investors has extended the case into international jurisdictions, creating both legal and reputational challenges for India on the global stage.

This case also raises questions about the preparedness of Indian public sector undertakings (PSUs) to operate in increasingly complex commercial environments. It exposes a structural disconnect between state-controlled entities functioning with a public mandate and the demands of international commercial norms. The absence of rigorous pre-contractual evaluation, risk assessment, and inter-agency consultation allowed the deal to proceed despite its obvious irregularities, raising serious concerns about internal compliance mechanisms within government-linked enterprises.

Furthermore, the ongoing international arbitration disputes stemming from the Devas deal have put India's bilateral investment treaty (BIT) framework under the spotlight. These proceedings underscore the risks that ambiguous, non-transparent contracts pose to sovereign interests when challenged under international investment law. The Indian government's response to such litigation, including its BIT review and emphasis on domestic dispute resolution, reflects a shift toward more cautious and self-protective treaty obligations in the future.

Ultimately, the Devas-Antrix saga serves as a stark reminder that legal and regulatory reforms must evolve in tandem with technological and commercial advancements. Strengthening corporate governance within PSUs, ensuring independent and empowered regulatory oversight, mandating comprehensive risk vetting for high-value contracts, and harmonizing international obligations with domestic law are imperative steps toward safeguarding public resources. Unless public accountability mechanisms are fortified and institutional ethics are prioritized, similar instances of large-scale fraud may

recur, jeopardizing both economic development and public trust.

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