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Corporate Criminal Liability – Clarity in Delegation of Authority is Important for Charging Officers of a Company

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Corporate criminal liability rests upon a legal paradox- a company is a juristic person without a physical presence or an independent mind, yet it conducts business, makes decisions and acts through natural persons. The central question is therefore not merely whether a company can be criminally liable, but when the acts and mental state of a natural person(s) can legitimately be treated as the acts and mental state of the company itself.

Recently, the Supreme Court of India (SC) in Sanofi India Ltd. v. Central Bureau of Investigation (2026 INSC 957) examined the principles governing attribution of criminal liability to a company for offences requiring 'mens rea'.

SC held that through the actions of a company, the state of mind of its directors, officers or employees can be attributed to the company itself. Significantly, SC held that criminal proceedings against a company cannot be quashed merely because the prosecution has not identified or separately arraigned a specific natural person through whom the company is alleged to have acted.

The case arose from allegations concerning the procurement of pharmaceutical products by the Bhabha Atomic Research Centre (BARC). Sanofi India Ltd (Sanofi) was arraigned along with a BARC scientific officer in the proceedings alleging, among other matters, a conspiracy relating to procurement of medicines at inflated prices. No director, officer or employee of Sanofi, however, was separately identified or prosecuted. Sanofi contended that, since the alleged offences involved 'mens rea', prosecution of the company necessarily required identification of the individual whose conduct and intention could be attributed to it. The SC rejected this as an absolute prerequisite and held that the absence of such identification or arraignment, by itself, does not invalidate a corporate prosecution.

At the same time, SC formulated a structured three-stage framework for determining attribution:

- First, the court must examine whether the company's constitutional documents or applicable principles of company law confer authority upon the relevant individual to undertake the act in question.
- Secondly, where the above does not provide a conclusive answer, the court must consider whether authority was expressly or impliedly delegated to the individual and whether the person exercised sufficient discretion and independence in performing the relevant function.
- Thirdly, where the first two stages do not resolve the issue, the court may consider whether the statutory provision in question requires a special rule of attribution and, if so, whether such a rule applies to the facts.

The framework is particularly relevant to modern corporate structures or entities, where decisions are rarely the product of a single individual. Commercial transactions may involve business, finance, legal, compliance and management personnel, while the person formally signing a document may not necessarily be the person who made the underlying decision. Conversely, employees below senior-management level may possess substantial operational discretion. Attribution must therefore be assessed by reference to actual authority and the circumstances of the particular transaction rather than simply by reference to corporate designation.

The judgment consequently underscores the importance of clear and effective delegation-of-authority frameworks. Companies should define as to who is authorised to take particular decisions, what are the limits of such decision making, approval requirements and circumstances requiring escalation or additional review. Importantly, formal delegation documents alone may not be sufficient. The recognition of implied delegation means that actual business practice may also be relevant. Where employees routinely exercise authority beyond their documented limits with the knowledge or acquiescence of management, the company may face difficulty in relying solely upon its written delegation matrix.

The decision also highlights the importance of maintaining contemporaneous records. Board and committee minutes, approval notes, delegation documents, internal correspondence and other records can become critical when investigations arise years after a transaction, particularly where personnel and organisational structures have subsequently changed. Such records may assist in establishing who exercised authority, who approved the transaction and the basis for the decision.

Finally, the judgment reinforces that compliance policies must operate in practice and not merely exist on paper. Anti-bribery, procurement policies, conflicts-of-interest, gifts and hospitality, intermediary-management and financial-control policies should be supported by appropriate approval, monitoring and escalation mechanisms.

The broader significance of *Sanofi* decision is that it extends beyond the narrow question of whether a company may be prosecuted without a separately arraigned natural person. Its principal contribution lies in clarity in the delegation and actual exercise of corporate authority at the centre of the analysis of corporate criminal attribution. Companies should accordingly be able to demonstrate, in relation to material transactions, who possessed authority, how that authority was conferred, what limitations applied, and whether those limitations were observed.

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