

Vijay Mallya – An astute businessman?

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Abstract

The case attempts to explore the loopholes in the system which allowed Vijay Mallya who lived a flamboyant life, was a member of the Rajya Sabha and the chairman of a giant company, to flee from India even when Kingfisher Airlines was grounded (Kingfisher Airlines founded in 2005 went bust in 2012 and Kingfisher Red founded in 2009 went bust in 2014), staff was unpaid, and liabilities had mounted to around ₹ 9000 crore. The case can be used in a business ethics class. It can be used to explain the finer intricacies of the Business Entity Concept. It can also be used for explaining the guidelines used by banks in order to advance loans to companies, and the effects of not following the guidelines. The case can be used for explaining the concepts of lien and pledge. It can also be used for demonstrating that during the campus-placements sessions the students should not be swayed by brand names and/or hefty pay-packages.

Keywords: Business ethics, Financial institutions, Provident fund, ex gratia

1. Introduction

1.1 Vijay Mallya's Lifestyle

Dr. Vijay Mallya, son of Mr. Vittal Mallya and Mrs. Lalitha Ramaiah, became the Chairman of United Breweries Group in 1983 at the age of 28. Vijay Mallya was known as 'The King of Good Times'. According to reports carried by the newspapers Vijay Mallya had donated 32 kg of gold and 1,900 kg of copper in November 1998, for gold plating at the sanctum sanctorum of the Sabarimala Ayyappan temple, at a cost of ₹ 18 crore, albeit the funds had come from the United Breweries (UB) Group and not from Vijay Mallya's personal wealth¹. Mallya bought the sword of Tipu Sultan in 2004 for £175,000 (10 times the reserved price) and Mahatma Gandhi's glasses and sandals in 2009 for \$ 1.8 million. In 2007, Vijay Mallya celebrated his 51st birthday aboard the Indian Empress superyacht which he had bought in 2006, for an undisclosed sum of money². Enrique Iglesias was flown from Miami to sing happy birthday to Vijay Mallya in 2015 and the fireworks that lit the sky above his beachfront mansion could be heard 18 kms away³. Nothing wrong, except that he spent such a huge sums and was celebrating his birthday in such a style, even when he owed the system an exorbitant sum of money. *Exhibit 1*⁴ provides information pertaining to the business expansion spree of Vijay Mallya.

Exhibit 1

Year	Company set up /acquired
1951	acquired McDowell
1959	first distillery is established in Cherthala, Kerala
1968	McDowell's No. 1 Whisky launched
1969	McDowell's Hyderabad distillery is commissioned
1971	distillery in Ponda (Goa) is commissioned
1973	Distillery in Hathidah (Bihar) is commissioned, Acquisition of Herbertsons
1976	Herbertsons launches Bagpiper whisky
1977 – 80	Acquisition of distilleries in Udaipur, Alwar, Mirganj, Serampore. Setting up of a plant in Pondicherry
1988	Establishment of Technical Development Centre
1991 – 92	Acquisition of spirits business of Forbes Campbell & Company Limited
1995	Merger of Carew Phipson Limited Consolidated Distilleries Limited and a few other companies with McDowell & Co
2005	McDowell & Co. acquires Shaw Wallace and Company. Vijay Mallya spent 20 years, 3 months and 4 days in order to acquire the firm.

1.2 Early History of UB

United Breweries Group (or UB Group) was founded by

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Thomas Leishman in 1857. In 1947, Mr. Vittal Mallya was elected as the company's first Indian director. UB Group expanded by acquiring other breweries and moving into agro-based industries, pharmaceuticals, electricals, aviation, chemical fertilizers, Kingfisher calendars, Formula One auto-racing, and Football circuit. Vijay Mallya has to his credit the record of entering and exiting 32 businesses in 32 years⁵. *Exhibit 2*⁶ provides information about some of the businesses set up and wound-up/sold under the leadership of Vijay Mallya.

1.3 Default

In September 2014, the United Bank of India convened an urgent meeting of its board of directors to declare Vijay Mallya a 'wilful defaulter'. Mallya challenged the decision in the Calcutta High Court and the bank's plea was dismissed. In November 2015, the State Bank of India declared Vijay Mallya and two of his group companies: United Breweries Holdings and Kingfisher Airlines, willful defaulters. *Exhibit 3* provides information

pertaining to the loans extended by various banks to Kingfisher Airlines⁷.

On December 21, 2010, United Breweries and Vijay Mallya had executed both corporate guarantee and personal guarantee promising repayment of the entire amount due to the banks⁸.

The service tax department (wanting to recover outstanding dues of ₹ 115 crores from Mallya) and a consortium of 17 banks moved the Bombay High Court and the Supreme Court seeking to secure the presence of Vijay Mallya only to learn that Mallya had flown out of the country on March 02, 2016^{9,10}.

The October 13, 2015, issue of *The Times of India* carried a report (page 13) detailing Mallya's Kingfisher Airlines diverting ₹ 1,296 crore loans to tax havens. A part of the report read: "The initial probe into alleged diversion of funds has revealed that the money, taken from different banks, was shown as used for leasing aircraft from overseas companies, mainly based in tax havens like Cayman Islands and Mauritius. It appears that

Exhibit 2

Name of company	Year of establishment/acquisition	Year of being sold or wound up
UB Mysore Electro Chemicals Batteries Ltd	Inherited	1991
Kissan Products Ltd	Inherited	1994
UB Petrochemicals Ltd	Inherited	2001
United Spirits Ltd	Inherited	Sold majority stake to Diageo in 2012
Krest Finance Ltd	Inherited	Now in BIFR
Aventis Pharma, Bayer India	Majority stakes purchased in 1956	Sold stakes in 2010
Hindustan Polymers	1961	1997
Western India Erectors	1970	1993
Carbonated Beverages Ltd	Set up in 1970s	Closed in early 1990s
Unitel Communications Ltd	1985	2000
UB Electronics Instruments Ltd	1985	2001
Pizza King	1986	1989
Berger Paints	1988	1996
Best & Crompton	1989	1995
UB Hoppecke Energy Products Ltd	1989	2001
UB Air	1990	In dormant stage since 2012 board meeting
Mangalore Chemicals & Fertilisers	1990	Sold majority stake in 2015
UB Healthcare Ltd	Set up in early 1990s	2015
Blue Pearl Internet Group	1993	2002
Masonelian India Ltd	1993	1997
Vijay TV	1994	1999
UB Transit Systems Pvt Ltd	1994	2001
Mines Exploration Pvt Ltd and UB Mining Ltd	1995	1999
Asian Age Holdings Ltd and UB Publications Ltd	1997	2005
Kingfisher Sports Gear Pvt Ltd	1999	2002

high rents were paid to the companies in these countries using bank loans for which invoices were inflated”.

The March 12, 2016, issue of *The Times of India* carried a report (page 18) that Mallya flew out of India on March 02, 2016, the day the banks moved the debt recovery tribunal to have his passport impounded to help them recover their loans, but his private jet (an Airbus 319 – with call sign VT-VJM) occupies rent-free precious parking space at Mumbai airport.

Exhibit 3

Name of Bank	Amount in Rs crores
Axis Bank	50
Punjab & Sind Bank	60
Federal Bank	90
Indian Overseas Bank	140
State Bank of Mysore	150
Corporation Bank	310
UCO Bank	320
Central Bank	410
United Bank of India	430
Bank of Baroda	550
Bank of India	650
IDBI Bank	800
PNB	800
SBI	1,600

17 banks had lent a total of ₹ 6,963 crores to Kingfisher Airlines

2. The biggest question is: Who is going to pay 9000 crores?

There are several books on Financial Management which

Exhibit 4

Year	Scam	Amount	Year	Scam	Amount
1976	Kuo Oil Deal Scam	2.2	1996	FodderScam	950
1981	Antulay Trust (pay-off)	30	1996	Hawala Scandal	810
1987	HDW Commission	20	1996	Telecom Scam	1.6
1987	Bofors Scam	64	1996	Urea Deal	233
1991	Telgi Scam	43,000	2000	Match Fixing Scam	N.A.
1991	JMM Bribes (to JMM MPs)	0.3	2000	UTI Scams	32
1992	Security Scam (Harshad Mehta)	4000	2001	Mutual Funds Scam	1350
1992	Indian Bank Rip-off	1300	2002	Home Trade Scam (Sanjay Aggarwal)	600
1994	Sugar Import	650	2005	Oil for Food Scandal	N.A.
1995	Bhansali Scam	1200	2006	IPO Scam	61
1996	Lakhubhai Pathak Scam (money paid to get a paper pulp contract)	0.1	2009	Madhu Koda Scam	4000
			2009	Satyam Scam	24,000
			2010	The 2G Scam	1,76,000

dwelling on the causes of financial sickness, symptoms of sickness, prediction of sickness (such as the classic study conducted by E. I. Altman ¹¹), and certainly people at the helm of giant companies including financial institutions have working-knowledge of such terms, even then financial institutions have been advancing loans. This is indeed a cause of alarm. Then, there is still another issue, how do people in the top management take home hefty salaries when their own staff is unpaid? Where does that money come from? According to an article “Mallya in full control, got ₹ 1.6 cr in FY16: UB Group” which appeared on page 17 of *The Times of India* dated September 19, 2016, even after relocating to London, Vijay Mallya has full control over the affairs of the company through appropriate delegation of duties to various operating executives who report to him on a regular basis and Mallya received remuneration of about ₹ 1.6 crore from two overseas subsidiaries of UBHL.

One benefit of the Kingfisher Airlines (KFA) case is that it can add up to the numerous scams which have been unearthed in our country (some of which have been beautifully presented by Mr. N. Vittal in his book *Ending Corruption: How to Clean up India*). For the benefit of the reader a few cases have been presented in *Exhibit 4* ¹².

2.1 Effects on the lives of KFA employees

Several newsmagazines have highlighted the plight of KFA employees. 45-year-old Susmita Chakravarti hanged herself. Her suicide note read: “My husband works with Kingfisher where they have not paid him salary for the

last six months. We are in acute financial crisis and so I am committing suicide". In the next few months, 7,000 KFA employees lost their jobs and they had worked for 18 months at KFA without salary.

L. Dsouza's engagement was called-off in 2011. He was not paid salary for 17 months which amounted to 12 lakhs. S. Choudhary's father passed away due to lack of proper treatment. He was not paid salary for several months. KFA owes M. Khochade ₹ 1.20 lakhs. He used to work at KFA from 4 a.m. to 2 p.m. and at a doughnut company from 5 p.m. to 11 p.m.

Sanjay Bahadur represented Kingfisher in the aviation ministry, *Directorate General of Civil Aviation* (DGCA), *Airports Authority of India* (AAI) and *Bureau of Civil Aviation Security* (BCAS). Mallya stopped responding to Bahadur's pleas for financial help when the salaries were not being given to the employees. There was a time when Mallya used to accompany Bahadur for important ministry meetings. Mallya claims that he did not flee from India. He is not an absconder but an international citizen.

2.2 Some Other Questions Which Deserve Deep Thought

Who should he held responsible if an employee commits suicide because he has not been paid the promised salary for seven or eight months? What can be done if the employee who commits suicide is the only earning member of his family? Can the government pay the dues of the employees ex gratia and recover the same from the company and management of KFA?

Mallya's sprawling assets abroad are worth much more than ₹ 9000 crore due to the banks. Can these assets help Mallya in reducing the debt of his companies? *Exhibit 5* lists some of Mallya's assets.

KFA had nearly 4,000 employees. Approximately four years after KFA was grounded, the Employees Provident Fund Organization was trying to find out whether the company failed to deposit workers' dues¹³. In this era of mass computerization and digital technology, is it so very difficult for *Employees' Provident Fund Organisation*(EPFO) to gather/verify facts?

Exhibit 5

Mallya's assets & their worth	Value of Holding (₹ cr)	Unencumbered* Portion (₹ cr)
Shares in United Breweries	6,724	3,496
Shares in UB Holdings	72	62
Mangalore Chemicals & Fertilisers	25.74	21
Kingfisher Towers	1,500	950
Kingfisher House**	150	150
Kingfisher Villa***	90	90

* Free of mortgage and pledge;

** owned by Kingfisher Airlines & pledged to banks;

***owned by United Breweries Holdings and pledged to banks;

13 residential properties, on which Mallya has lien, held by United Spirits

(Source: The Times of India, Mar 12 2016, page 1)

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