

Nasikwala Law Office

advocates & solicitors

History & Profile:

The firm is founded with the objective to provide clients with quick and comprehensive solution-oriented legal advice and assistance from attorneys who have substantial expertise in practice areas to provide the most comprehensive legal advice and strategy with highest professional standards.

The firm's practice areas include Property & Real Estate, Banking & Finance, Direct Taxation, Bankruptcy, Corporate, Civil & Commercial Laws, Dispute Resolution (Litigation and Arbitration), Intellectual Property Rights, and Trusts & Wills.

Property and Real Estate, Trusts and Wills:

Scope of work:

- advising clients on acquisition/purchase and sale of properties e.g. land and buildings.
- advising clients on acquisition/purchase and sale of properties in trusts, societies, condominiums, housing estates, commercial complexes, shopping complexes, office and industrial units.
- title investigation, search, due diligence in properties.
- advising and preparing documentation in relation to transfer of property, settlements, mortgages, assignments, lease, licence, gifts.
- advising clients on legal, regulatory and taxation issues on cross border investment in real estate and in residential & commercial properties.
- advising clients on lands laws, development control regulations, public trusts, redevelopment of slums and cessed buildings.
- land and property disputes.
- stamp duty, property tax, and registration of real estate transactions.
- advising clients on succession issues, wills, succession certificate, probate and letters of administration.
- advising private, public trusts, NPOs, NGOs on various issues including relating to its formation, constitution and property.

Dispute Resolution (Litigation), Arbitration and Bankruptcy:

Scope of work:

- advising clients on choice of law, jurisdiction and conflict of laws.
- advising clients on pre-litigation and dispute resolution strategy.
- drafting pleadings and filing papers in forums/courts.
- representing clients before various forums/courts.
- advising on enforcement of foreign judgments in Indian courts.
- advising creditors on insolvency and bankruptcy issues.
- pursuing creditor's claims for winding-up against companies.
- advising clients on the choice of arbitration- domestic or foreign, choice of law, place of arbitration and related documentation.
- advising clients on pre-litigation and dispute resolution strategy.
- advising and representing clients before the courts to obtain interim measures in relation to the subject matter of arbitration.
- advising and representing clients throughout the arbitration.
- advising and representing clients in relation to the challenge to the award and its enforceability.
- advising and representing clients to enforce an award- domestic or foreign.
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Banking and Finance:

Scope of work:

- advising clients, preparing documents and negotiating documents on lending/loan/facilities/loan products extended by banks and financial institutions (including consortium finance, refinance, syndicated lending etc.) and preparing security documents.
- advising clients and preparing documentation including in relation to cash credit facilities (like bill discounting, letter of credit facility, pre and post shipment, bank guarantees), term loan facilities, housing loan, and preparing related security documents. Getting security documents adjudicated for payment of stamp duty and registering it, if required.
- title due diligence and providing title opinions.
- advising clients on creation and enforceability of mortgages.
- advising and representing clients on defaults by borrowers, non-performing assets and on recovery mechanism and representing them before DRT or courts.
- advising clients on general banking related issues.
- advising clients on general corporate financing, private and corporate banking transactions trade financing, and other forms of negotiable instruments.

Direct Taxation:

Scope of work:

- general taxation advisory services.
- cross Border tax advice in relation to optimum tax planning, structuring, documentation and overall guidance to minimise taxation through established legal practices.
- end to end services in transfer pricing from setting up transfer pricing policy, documentation, Form 3CEB compilation, representation and submissions before TPO and various judicial forums like Dispute Resolution Panel, Income Tax Appellate tribunal and higher Courts.
- tax advisory in relation to Inbound investments via FDI, FII and Private Equity route with special expertise in derivatives, Capital Markets and securities laws.
- opinions on taxation in regard to various triangular taxation, attribution of profit to a Permanent Establishment, Withholding tax issues and various related issues like taxation of royalty, Fees for technical Services and Force of attraction principle in relation to Cross Border Taxation.
- advise and Opinions on taxation and Accounting treatment in relation to derivatives and securitisation accounting from the perspective of US GAAP, and current and proposed Indian GAAP.
- preparing pleadings and representation in Income Tax matters before various tax authorities and judicial forums.
- taxation and Financial Due diligence for PE investment and funding transactions.

Intellectual Property Law:

Scope of work:

- General Advisory issues in relation to various IPR laws and issues like Patents, Trademarks, Copyrights, Geographical Indications, Trade Secrets, Integrated Circuits, Plant Protection and Biodiversity Acts
- Applications and representations before the Registry of Trademarks for Oppositions, examinations and rectifications
- Drafting of Claims, specifications and responses to Examination report for patent applications including PCT applications
- Advise and representation before the Bombay High Court and the Intellectual Property Appellate Board in Trademark, Patent and Copyright matters

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- Drafting of employment, Non compete and trade secret agreements
- IPR Due diligence in case of funding and PE investment

About the Partners:

Huzefa Nasikwala- graduated in law in 1999 from Government Law College, Mumbai after which he joined Mulla & Mulla & Craigie Blunt & Caroe, Advocates and Solicitors. At Mullas, he earned considerable experience in corporate, civil and commercial laws, arbitration, dispute resolution, property & real estate, trust and wills.

While in Mullas, he was also involved in some high profile disputes like for example (and only for illustrative purposes) the takeover battle of Herbertsons Limited. In 2003, he became the Solicitor of the Supreme Court of England & Wales. He left Mullas in 2005 to join as an Off Counsel to a Barrister based in Kolkata.

In March 2007, he joined Juris Corp, Advocates & Solicitors, as a Senior Associate. In July 2008, he was elevated as a partner and remained as a partner till he left Juris Corp in May 2011 to start on his own. As a partner in Juris Corp, he was head (and later co-head) of Dispute Resolution Practice, Arbitration and Real Estate.

During his stay, Juris Corp was ranked consistently in Dispute Resolution in leading publications like *Legal 500*, *Asia Law* and *Chambers & Partners*. Huzefa Nasikwala has been also ranked as an *Up & Coming Individual* in Mumbai, India by *Chambers & Partners* in the field of Dispute Resolution.

He has also advised clients on real estate issues and security creation in a transaction where the investment was well over USD 400 million. Besides, advising clients on legal and regulatory aspect of real estate issues particularly in cross border investments, he has advised and represented clients on buying and selling of properties, as also on lease, licence, assignment, mortgages, gifts in societies, condominiums, IT parks, malls, shopping complexes and trust properties.

Currently, he is advising a public trust which is redeveloping around 16.5 acres Mumbai on matters primarily relating to property, conveyance, estates. The said redevelopment would be the largest single urban renewal scheme in India.

While in the firm, he was involved in some landmark matters which have created historical judicial precedents like the famous decision of Madras High Court in the matter of *Rajshree Sugars* which was a trendsetter and a first-of-a kind judicial precedent by an Indian High Court on the subject of derivatives. He was one of the counsels who advised and represented the bank against *Rajshree Sugars*. He also advised and represented clients in the widely reported decision of the Bombay High Court admitting the winding-up petition against Wockhardt Limited, the pharmaceutical giant, which had a run-in with the creditors due to its massive debt exposure.

Over the years, he has consistently advised and represented several banks on diverse banking related issues and in banking litigation-be it Debt Recovery Tribunal, civil courts, High Courts or Supreme Court of India. While in Juris Corp, he was one of the key attorneys advising Fixed Income Money Market Derivative Association of India (FIMMDA) which has challenged the decision of the Orissa High Court directing the Central Bureau of Investigation to initiate criminal investigation in the affairs of the banking industry over the derivative disputes. The Supreme Court of India has granted a stay on the Orissa High Court decision and the matter is currently pending in the Supreme Court of India.

He has also represented clients in domestic as well as foreign arbitrations (conducted by the London Court of International Arbitration) on complex disputes.

As a real estate practitioner, he has advised clients on property and real estate matters not only in Mumbai but pan India.

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Freddy Daruwala has a master's degree in Commercial Law from the University of Mumbai and is also a qualified Chartered Accountant. He has an excellent academic record having secured the gold medal in LL.M. and merit ranks in the C.A. Final LL.B, and B.Sc (Hons.) Examinations. He also holds a technicianship from the Institution of Engineers (India). He has over two decades of experience in Direct Taxation specialising in cross border taxation and transfer pricing and has also represented clients before various Income tax authorities including the Income Tax Appellate tribunal, having practiced as a Chartered accountant earlier. As an intellectual property lawyer having represented clients before the Controller of Patents, the Trademark Registry, the Intellectual Property Appellate Board and the Bombay High Court. He has also drafted Patent Claims and other related Patent Documentation and represented clients before patent examiners, given his science and Engineering background. Besides the above he has also an extensive knowledge in the fields of Accountancy, MIS, Valuation, treasury operations and audit having held positions of Commercial Director in leading Advertising agencies.

Freddy Daruwala started his career as a corporate finance professional with a leading courier company and then moved on as a Commercial Director with leading advertising agencies over a span of nine (9) years. Subsequently he was a practicing Chartered Accountant for about five (5) years before qualifying as a lawyer with a masters degree in Commercial law. He then practiced Intellectual property law with M/s Jehangir Gulabbhai Bilimoria and Daruwala before joining Juris Corp from 2005 to 2012 where he was the partner solely in charge of the firm's direct tax and Intellectual property law practice. In the course of his practice with Juris Corp he has handled several transactions and has rendered advice on a variety of cross border taxation, transfer pricing, intellectual property and Accounting Standards matters and is also mentioned in Tier 3 in 2012 as a leading individual for taxation practice in India in *Chambers & Partners*.

He has inter alia advised on the following matters:

- advised a leading global financial services firm on their global transfer pricing policy as regards India.
- advised a leading multinational banking and financial services company on taxation implications of futures cash arbitrages in the Indian capital markets considering the impact of trading in cash segment being deemed speculation under explanation to section 73 of the Income Tax Act 1961
- advised International Swaps and Derivatives Association ("ISDA") on the Direct Taxes and Service Tax Issues in India.
- structured and advised on Intellectual property issues and transfer Pricing and cross border tax issues in a film financing transaction using off shore subsidiary of an Indian company with a charge on future receivables using a completion bond.
- tax advisory and structuring on a real estate property collateralised Debt obligation ("CDO") with a pass-through onshore investment vehicle incorporating various senior, mezzanine and equity tranches of Pass through Certificates ("PTC") to capture various principal, income and capital appreciation components of the transaction. This transaction was an innovative trendsetter in the market.
- advised a leading Multinational Banking Group on a triangular tax and Permanent establishment issue on derivatives and hedging transactions, further complicated by the presence of an Indian branch carrying out certain similar activities.
- structured a financing transaction using trademarks as a security. This is significant since under present Trademark Law, no charge is permitted to be entered in the Trademarks Register.
- advised on IPR issues in the demerger of a leading financial services firm from a leading global financial services firm which was one of the largest demergers in the financial services industry.
- advised on financing issues in relation to a firm having knowledge in the spheres of horticulture and agriculture covered under Plant Protection Varieties and Farmers Rights and Biodiversity legislation in India.
- carried out IPR due diligence for a large multinational PE fund for investment in a very large player in the Pharma industry having several patents in various stages.

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- structured and advised on Intellectual property issues in a film financing transaction using offshore subsidiary of an Indian company with a charge on future receivables using a completion bond.
- advised and structured remuneration packages and agreements for senior consulting physicians and doctors in a large multi-speciality hospital in Mumbai
- drafted agreements and advised on non compete issues for Expatriate CEOs and key personnel posted in India.
- preparing Copyright Assignment and Licence contracts and Model contracts for artistes and performers for a variety of Clients in the Media and entertainment Industry.
- advised in relation to Service Tax on IPR assignments and licences in the Media and entertainment industry.
- advised and represented clients in Trademark Infringement suits before the Bombay High Court as well as the Intellectual Property Appellate Board in Mumbai.
- advised a leading public sector Oil Corporation on the implications of Permanent Account Number in Withholding Tax in respect of its overseas note borrowings.
- advised and successfully represented a leading FII before the DIT (International Tax) for mitigating its tax liability as a result of its security trading operations in India which had been challenged by SEBI.
- opined on accounting treatment of provisioning of Non performing assets comprising of derivative contracts in a recovery suit by a leading PSU bank considering the interplay of RBI circular on provisioning for derivative NPAs along with Indian GAAP accounting standards AS 30, 31 and 32.
- advised and opined on accounting treatment for credit enhancement, first loss for Securitisation trusts for Tata motors securitisation trusts under US GAAP.
- advised and supervised entire transfer pricing study of leading iron ore mining companies.
- advised Fixed Income Money market Derivatives Association ("FIMMDA") on their tax liability and mitigation of the same resulting from the change in scope of "charitable purpose" in the Income Tax Act.
- preparing documents and advising on cross border taxation issues for Expatriate CEOs and key personnel posted in India.
- tax and Financial Due Diligence for a large PE fund investing in a leading Private Pharma company.

Freddy is also the author of several articles which have appeared in the premier taxation publications like *Taxman*, *Corporate Professionals Today*, *SEBI and Corporate Law*, *International Taxation*, *Philanthropy*, *Euromoney* and *India Business Law Journal*. He has also appeared on premier Television Financial Channels like *CNBC* on current issues in cross border tax and transfer pricing and is a regular contributor to the premier Indian website *Bar and Bench*. He is the only Lawyer selected on the panel of authors of "*Guide to Indian Transfer Pricing*" commissioned by the Chamber of Tax Consultants and has authored the chapter on Transfer Pricing in relation to Intangibles and is regarded as one of the foremost authorities on transfer pricing in relation to Intangibles in India. He has also authored "*Allied Laws for Non Profit Organisations*" and is principal co-author of "*Guide to the Accounting Function for Non Profit Organisations*" commissioned by a grant from the Ford Foundation through the Centre for Advancement of Philanthropy and is also the former faculty for Income Tax at the Government Law College Mumbai

Shamina Lakdawala is qualified lawyer registered on the original side of the Bombay High Court. She is also a Solicitor from the Bombay Incorporated Law Society, Bombay and a Solicitor from the Supreme Court of England and Wales.

She has substantial experience in Real Estate and Property and is an expert in property conveyance. She also has significant experience in litigation-in courts and in arbitration. Besides, she is an expert in testamentary matters.

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Team:

The firm has an experienced team of attorneys who are well versed in the practice areas of the firm. The attorneys strive to achieve firm's objective keeping the best interest of clients in mind. The attorneys are well read, research oriented and use legal resources to keep itself updated on any law issues.

Contact:

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