

Leading Lawyer Bijal Ajinkya on Aligning Expert Legal Advice and Trusted Advisor Status

Khaitan & Co is one of India's leading law firms, and Bijal Ajinkya is a Partner in the Direct Tax, Private Client and Investment Funds Practice Groups in the Mumbai office. With over 21 years of experience, Bijal today on the direct tax side, primarily focuses on international tax, structuring of inbound and outbound investments, M&A tax negotiations, providing opinions on complex domestic and international tax issues, and a host of associated issues. On the Private Client side, she regularly assists families structure their succession structures of their wealth and their businesses in accordance with the family philosophy and in a tax and regulatory compliant manner. She is considered a leader on this practice in India and her understanding of functioning of families and the sheer volume of families she has assisted on, has sharpened her skill set on this side to be amongst the best. Her firm's website reports that she has been a lead advisor in many successful and pathfinding tax litigations in India and has also served as an expert witness on Indian tax matters in international arbitration disputes. She actually cut her teeth on a famous tax litigation case in the early stages of her legal career, since when she has grown in prominence, leading a number of other high-profile cases and becoming a partner at the firm at a relatively young age. Hubbis caught up with her recently by video call and learned of her role, her missions and how she is helping clients navigate the increasingly complex and often muddy waters of global compliance. She believes that the pandemic has crystallised the trend towards greater openness and a more proactive approach to wealth and succession planning and reports that to help wealthy clients as a leading law firm, empathy and trust are central to the USP and the overall mission.

GET IN TOUCH

[View Bijal Ajinkya's LinkedIn Profile](#)

[Find out more about Khaitan & Co.](#)

“Most businesses in India are still private, and most of them family-controlled,” she reports. “As economic development has been so robust for several decades, many of these family businesses have grown to a stage where they have matured enough to actually contemplate and also undertake succession of leadership, the succession of management, and where the shareholders need much more support in their personal wealth planning and affairs.”

“When all in the same place at the same time, you tend to realise what is most important, and because businesses were shut down for quite some time in India, the clients started undertaking their planning efforts, we sent them checklists to help them get their houses in order, and the result is that we have seen far more activity and interest.”

India opens up and looks ahead

She looks back to a time, not that long ago, the discussions around mortality and succession were strictly off-limits, as there was the long-held notion prevalent that talking about something made it more likely to happen. “But today, more families have children and family educated abroad, they often learn their early company experience overseas, and we have gradually seen the change of thinking here whereby families are increasingly thinking about the future and contemplating many issues around mortality, life changes, succession, asset protection, wealth transition, potential pitfalls along the way such as divorces and so forth.”

Dealing with life’s realities

All these areas have become central to Bijal’s work and expertise, and part of the catalyst has of course been the pandemic, bringing issues of life and death to the foreground. “Families have seen that it is now or never to organise their affairs more professionally,” she reports. “When all in the same place at the same time, you tend to realise what is most important, and because businesses were

shut down for quite some time in India, the clients started undertaking their planning efforts, we sent them checklists to help them get their houses in order, and the result is that we have seen far more activity and interest.”

Rapid reaction required

She also reports that due to the impact of the virus, there have been a number of instances when the firm was suddenly asked to prepare guardianship applications and Wills, literally overnight, on behalf of families who were suddenly literally stuck in India, because of coming ‘home’ to India on business, and not able to move back to their overseas residences where they spend most of their time.

Succession issues and professional solutions

Bijal observes that the evolution from reticence to a more proactive approach to planning amongst India’s patriarchs and matriarchs has occurred in the past decade, with more and more of them accepting that their children might not be involved in the business in the future.

“This has given rise to more family offices as owners look to ensure professional management succession,” she reports. “Families see that the nextgens might not be interested in the business but could be part of the broader picture of family wealth. They see the logic of selling businesses when the time and valuations are right, monetising and transferring the wealth into a family office structure, engaging with professionals to manage the family office, such that the wealth in itself grows.”

Family offices, India style

Accordingly, Bijal and colleagues are seeing a rising number of single- and multi-family offices and a more professional approach from them. She also observes that the Indian take on the family office is more like an internally controlled wealth manager, conducting asset allocation and monitoring the assets and deployment of the assets. “Today in India, the family office is really the conduit for making investments and is generally managed professionally, often by experts who were in larger private equity funds,” she reports. “This means that there is a broad view of the opportunities and a more professional approach to active or passive investment opportunities,” she reports.



BIJAL AJINKYA
Khaitan & Co.

Seeking openness and family buy-in

“And at the same time as more family offices are emerging, we are definitely seeing more families interested today in formalised family constitutions in order to guide the family and its wealth into the future,” she reports.

However, she cautions that unless the whole family buys into the concept, these exercises can be somewhat frustrating. “These roadmaps for the family might be well-drafted,” she says, “but without open communication and agreement amongst family members and across generations, they can end up just as another piece of paper gathering dust.”

Legal expertise and trusted advisor – a perfect combination

The key for law firms that seek to offer the best legal advice and achieve acceptance from their clients is to achieve and project the role of trusted advisor to these clients, Bijal maintains.

“This is somewhat of a cliché these days, but it is nevertheless a reality

Key priorities

Bijal’s first mission is to boost the firm’s ability to provide global advice to leading Indian families. “If we look at the top 50 Indian families, we need that level of global engagement and capability,” she explains. “Secondly, we feel flattered when we get clients referred to by other clients, as there is no better flattery and a stamp on our services but a client referred. Thirdly, she wants to continue to build the firm’s reputation and expertise. “Each member of our team is equipped and empowered to deliver exceptional service,” she says. “Apart from advising clients domestically and globally, we believe in the holistic development of our people for the evolution of the Indian legal profession and community.”

“These roadmaps for the family might be well-drafted,” she says, “but without open communication and agreement amongst family members and across generations, they can end up just as another piece of paper gathering dust.”

that in India and anywhere around the world, unless the family truly trusts you, they will not open up to you,” she says. “These wealthy clients first seek assurance of integrity; they want to know for example how many leading Indian families I have advised, how much experience I have garnered, and only then will they begin to open up. And of course, understanding them as individuals and as a family is vital to the mission, as we must first prioritise their objectives, whilst at the same time helping them understand the best options available for them and for everyone in the family.”

Tax – a vital consideration but not a driver of decisions

Tax plays an important role in decision making, she adds,

but perhaps less so than in past years. “Families are increasingly interested in mobility of jurisdiction and tax plays a crucial role,” she says. “Indian clients prefer to avoid countries that saddle them with global taxes, that is definitely a ‘no-no’ for them, but generally they make their decisions based on preferences like healthcare, education, reputation and other issues than tax. Indian clients also have an eye out for the arrival of inheritance tax, but so far, there are no concrete proposals.”

She closes the conversation by reiterating that India’s wealthy families are nowadays much more cognisant of the need to pay fees for expert advice and notes that the legal profession has been a beneficiary of this trend. “These

wealthy families know that they must make decisions on their businesses, succession and their estates, that they cannot simply

put these vital assessments and choices off, especially in the world as it is today," she reports. "This is naturally boosting our activities

and our value to such clients. These are fascinating, challenging and exciting times to be working with such clients." ■

Getting Personal with Bijal Ajinkya

Bijal was born and educated in Mumbai, where she has since lived, worked and raised her family. She attained her Bachelor's Degree in Commerce and Economics at the HR College of Commerce and Economics in Mumbai, she then studied at the Government Law College for her second degree as a lawyer. After her law degree, she went on to study for her Master's in International Law from the Mumbai University.

On the tax litigation front, she has led many successful international tax litigations in India; on the India-Mauritius Tax Treaty – Azadi Bachao Andolan, Applicability of Minimum Alternate Tax for Foreign Portfolio Investors for International Financial Associations, Taxation of Outsourcing in India for Morgan Stanley, Taxation of Online services for Dun & Bradstreet, Taxation of a Mauritius Protected Cell Company for Nicholas Applegate, to name a few.

The Azadi Bachao Andolan case boosted her career at an early stage of her development. "That was the biggest international tax litigation in the country in the Supreme Court at that point in time," she recalls with pride. "That came around when I had only around two years as a lawyer and am grateful to my mentor for that opportunity. It was an incredible opportunity to be amongst the lead lawyers of such a case. We were successful on behalf of a group of taxpayers, while at the same time actually counselling the Indian government on the litigation, with both on the same side, which is very rare. Even today, it is one of the most referred-to cases in any international tax opinion when you're referring to taking tax treaty benefits under the India-Mauritius Treaty or otherwise. So, that's definitely been a highlight in my career."

Another highlight came when she made partner at the firm in 2008 after 7 years of work experience. "Many of the leading cases I have worked on stem from those earlier successful cases and it has been wonderful becoming a partner of the firm and helping build our name and reputation. I am incredibly grateful for these great opportunities."

Married with two sons of 17 and 13, home life is spent mostly at home, baking, cooking, reading, and generally spending time with the family. She loves reading autobiographies of famous personalities as she enjoys reading about their life and their success stories.

Her final words centre on the silver lining she sees from the pandemic, namely the reassertion of the importance and value of family and friends.

"We were all running around like crazy, on auto pilot, before the pandemic hit; we travelled, we were out so much of the time away from the family, but then the pandemic hit, and the vital importance of family was reinforced for all of us. That is certainly a big positive for me and for so many I know," she observes. "Moreover, I think and hope that as this crisis hopefully abates, in the world of business and our working lives we will all have greater empathy and compassion than ever before. We must have a purpose and the world has definitely changed; things will never be quite the same in our lifetimes."

