

REFORMS IN EASE OF DOING BUSINESS IN INDIA Anticipating Silver Lining

India has always been regarded as a place where doing business is complicated in the wake of multiplicity of applicable laws and plethora of authorities and departments to deal with. The costs, number of procedures and time involved in setting up and running a business in India are the major demotivators for investments in India.

As per the Ease of Doing Business ('EODB') index created by World Bank where 190 economies are evaluated, India ranked 131 in 2016. EODB index indicates how easy or difficult it is for a local entrepreneur to open and run a small to medium-size business when complying with relevant regulations. A high EODB ranking means the regulatory environment is more conducive for starting and operating of businesses.

In order to attract more investments and making 'doing business' in India simpler, the Government is taking a series of measures, both at center and at state level. The emphasis of these reforms has been on simplification and rationalization of the existing regulations and introduction of information technology to make governance more efficient and effective. In spite of slew of reforms, India's rank has improved by just one place to 130 in 2017 as per 2016 World Bank report, with Andhra Pradesh and Telangana jointly topping 2016 all-India State/Union Territory-wise Ease of Doing Business rankings.

As there is still a long way to make it to top 50, Government has introduced host of reforms in the below areas to steadily improve its performance in world rankings:

- Starting a Business
- Dealing with Construction Permits
- Getting Electricity
- Registering Property
- Getting Credit
- Labour Market regulation*
- Protecting Minority Investors
- Paying Taxes
- Trading across Borders
- Enforcing Contracts
- Resolving Insolvency

1. Starting a business in India

- a. Mandatory incorporation of companies via SPICe (*Simplified Proforma for Incorporating a Company electronically*) reducing the time for incorporating a company to 1 day
- b. Reducing fees for incorporation of company
- c. Introduction of Start-up India Initiative and supporting them by making it easy to raise money mostly from abroad
- d. Abolition of 25 year old Foreign Investment Promotion Board ('FIPB') to simplify the existing procedure of seeking Foreign Director Investment ('FDI') proposals, now empowering individual government departments to clear FDI proposals in consultation with Department of Industrial Policy & Promotion ('DIPP')

*Added this year. The rankings given till date do not reflect labour market regulation reforms.

2. Paying Taxes

- a. Real-time and online ESIC & EPFO registration for establishments without any requirement of inspections or physical touch points. Online payment and filing of return is mandatory.
- b. Income Tax Department introduced facilities for e-audit of income tax return.
- c. Roll out of Goods and Service Tax ("GST") from July 1, 2017 to ease out indirect tax payments and return filing
- d. Abolition of wealth tax
- e. Mandatory online payment of Profession Tax

3. Construction Permits

- a. Municipal Corporation of Greater Mumbai ("MCGM") and Municipal Corporation of Delhi ("MCD") have introduced single window approval system by integrating with internal Departments as well as external Departments like AAI and NMA through a common application form.
- b. Site inspection for construction permits has been minimized by way of self certification and introducing third party certification. During construction, submission of video clips by architects has been introduced in online Auto DCR system.
- c. Both MCD and MCGM has introduced digital signing of building permit application and maps, thereby eliminating need of physical submission of documents.

4. Getting Electricity

- a. Mandatory online application for connections above 100 KVA in Delhi and Maharashtra
- b. Reduced time line and number of documents for getting electricity connections
- c. NOC/Consent to Establish not required for getting industrial electricity connection for setting up new industries and projects.

5. Labour Market regulation

- a. Launch of Shram Suvidha Portal to facilitate:
 - i. transparency and accountability in enforcement of labour laws and ease the complexity of compliance
 - ii. Online registration for allotment of Unique Labour Identification Number (LIN)
 - iii. filing of Single Unified Annual Return under 8 Labour Acts
- b. Introduction of Maternity Benefit (Amendment) Act, 2017

Applicable to all establishments, this Act seeks to increase the paid maternity leave to the women employees from 12 weeks to 26 weeks. Further, establishments with 50 or more employees are mandatorily required to provide crèche facility with 4 visits a day to crèche by the women employee. Majority provisions have been made applicable from April 1, 2017.

- c. Introduction of the Payment of Wages (Amendment) Act, 2017
 - i) Allows credit of wages in the bank account of the employees or payment through cheque along with the existing provisions of payment in current coin or currency notes.
 - ii) States like Andhra Pradesh/Telangana, Kerala, Uttarakhand, Punjab and Haryana have already come out with notifications to provide for payment through banking channels.
- d. Codification of labour laws

The Ministry of Labour and Employment has started the process of codification and amalgamation of 44 central labour laws into 4 codes to simplify the same. The four codes will pertain to labour, industrial relations, social security & welfare and safety and working conditions.

The Code on Wages, 2017, seeking to consolidate Payment of Wages Act, 1936, Minimum Wages Act, 1949, Payment of Bonus Act, 1965, and Equal Remuneration Act, 1976, have already been introduced in Lok Sabha on August 10, 2017. The Code is going to bring in a historical change in the wages for workers and universal minimum wages will be implemented for the first time in India.

6. Enforcing Contracts

- a. Commercial Divisions have been set up in Delhi and Bombay High Courts in view of Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act for speedy and time-bound disposal of commercial disputes
- b. The Arbitration and Conciliation Act has been amended to reduce the time taken in arbitration proceedings and grounds on which an award may be challenged.
- c. Government has proposed to set up e-courts for electronic filing of complaints, summons and payments

7. Trading across Borders

- a. Central Board of Excise and Customs (‘CBEC’) has implemented Single Window Interface for Facilitating Trade (‘SWIFT’) (online single window for clearance of goods) on the ICEGATE portal by integrating FSSAI, Animal Quarantine, Plant Quarantine, Drug Controller and Wildlife Control Bureau for imports.
- b. 24x7 customs clearance facilities have been made available in Mumbai and Delhi ports.
- c. Filing of import and export declarations and manifests has been made online with digital signature.
- d. Number of documents required for import and export has been reduced to three
- e. Government has set up online service facility Contact@DGFT for resolving all foreign trade-related issues.

8. Registering Property

- a. In Maharashtra, all property tax records have been digitized.
- b. The grievance management system, a single window service portal, has already been implemented by Government of Maharashtra - called “Aaple Sarkar” portal.
- c. Project for “e-DISNIC software” (Revenue Courts) for making the land dispute information available online has been rolled out

9. Resolving Insolvency

Introduction of Insolvency and Bankruptcy Code, 2016 (‘IBC’)

- a. Clear, coherent and speedy process for early identification of financial distress and resolution of companies and limited liability entities if the underlying business is found to be viable.
- b. Two distinct processes for resolution of individuals, namely- “Fresh Start” and “Insolvency Resolution”.
- c. Debt Recovery Tribunal and National Company Law Tribunal (‘NCLT’) to act as Adjudicating Authority and deal with the cases related to insolvency, liquidation and bankruptcy process in respect of individuals and unlimited partnership firms and in respect of companies and limited liabilities entities respectively.
- d. Establishment of an Insolvency and Bankruptcy Board of India to exercise regulatory oversight over insolvency professionals, insolvency professional agencies and information utilities.
- e. Insolvency professionals to handle commercial aspects of insolvency resolution process.
- f. Enabling provisions to deal with cross border insolvency.

With the above reforms in place, Government is optimistic of this year’s ranking which are due in October, 2017.



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