Confederation of Indian Industry
RESEARCH

EASE OF DOING BUSINESS WATCH

Volume 03 | **May 2019**

EoDB TRACKER
EODB Digest & World Bank's Doing Business Report

STATE SPACE
Madhya Pradesh's initiatives for strengthening EODB ecosystem

BEST PRACTICES
Key Best Practices of Top Ranked Countries across Doing Business Indicators

CII INITIATIVES
Reports, Conferences & Workshops

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Foreword

Ease of doing business in India has witnessed continuous improvement in the last 4 years. This is evident from the 65 spots jump in India's ranking from the 142nd position in 2015 to the 77th position in 2019 in the Doing Business Report of the World Bank. The Central and State Governments have been relentlessly introducing reforms for businesses. Among other key initiatives, the Central Government has recently launched the 'Ease of Doing Business Grand Challenge' to promote technological advancement by way of Artificial Intelligence, Internet of Things (IoT), Big Data Analytics, Block-chain and other cutting-edge technology to reform the government processes.

Similarly, several reform measures have been undertaken to streamline the business procedures for MSMEs, including relaxing lending norms, ensuring effective implementation of public procurement policy and establishing export promotion council, among others. Similarly, states continue to work for stronger implementation of reforms, such as online single window system, easier labour compliances, synchronized joint inspections etc. Further, as a part of the current reform exercise, hand holding support is being provided by the higher scoring states to other states and UTs needing support.

Introduction of business reforms has yielded significant improvement in several indicators of the Doing Business Report. India is now among the top 50 countries in 3 indicators - 'Protecting Minority Investors', 'Getting Credit' and 'Getting Electricity'. In 2 other indicators - 'Dealing with Construction Permits' and 'Trading across Borders' - the country is among the top 100 rankers. Reflecting the rapid pace of reforms, country's ranking has improved sharply by 129 spots in 'Dealing with Construction Permits', and 66 in case of 'Trading across Borders' in just a matter of a year.

While the country has made tremendous strides in the direction of improving the investment climate, there is still a long distance to cover. India still ranks poorly in the indicators of 'Registering Property' (166), 'Enforcing Contracts' (163), 'Starting a Business' (137), 'Paying Taxes' (121) and 'Resolving Insolvency' (108). Similarly, there appears to be large gaps in actual implementation of reforms and their on-ground benefits to the Industry in several states.

With a view to help India register sustained improvement in the Doing Business Ranking and address the gaps in introduction and delivery of reforms to the Industry, CII is working closely with Central and State Governments. Reducing the information asymmetry about the recent business reforms among the stakeholders has been one of our key objectives, which this publication attempts to achieve.

The current issue of the 'Ease of Doing Business Watch' focuses on presenting the key findings and analysis of the latest Doing Business Report of the World Bank. In this issue, we have also instituted a section on 'EoDB Digest', which is an informative column based on some key news items of the print media. It also carries articles from CBIC, DIPP and industry to provide an insight into the developments on various indicators of doing business. In the Section on Best Practices, the Watch mentions the reforms implemented by the top ranked economies in all EoDB parameters of the Doing Business Report. It also highlights some major initiatives undertaken by CII for improving the doing business environment.

Chandrajit Banerjee
Director General
Confederation of Indian Industry

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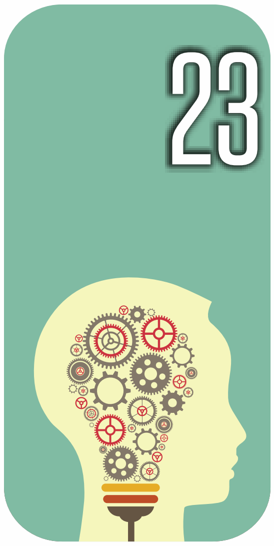
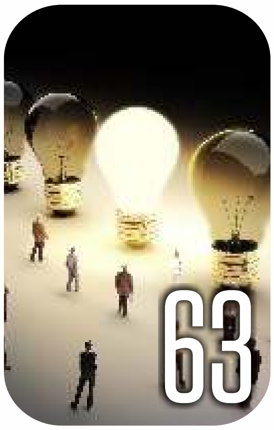
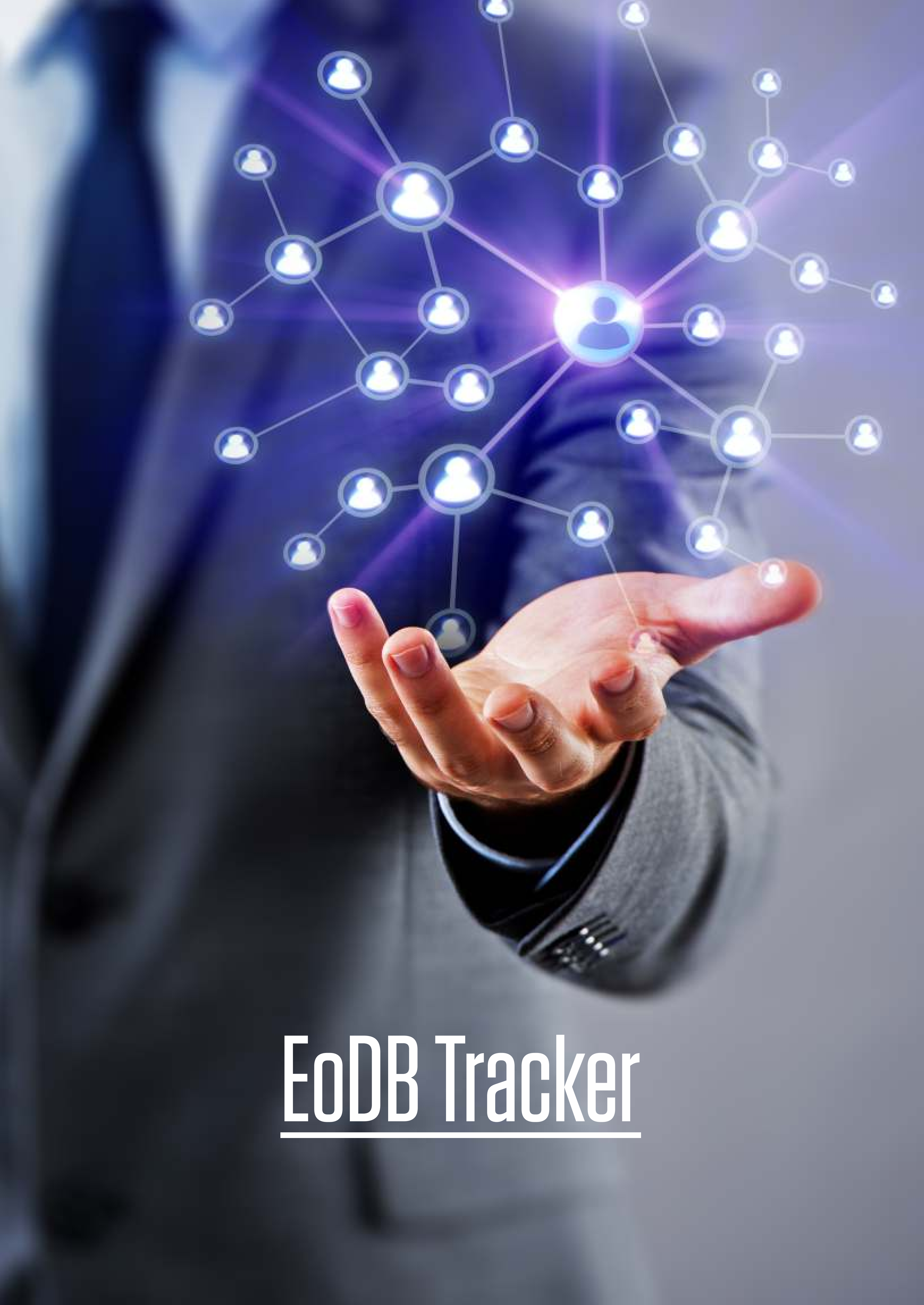






EoDB Tracker

EoDB NEWS Digest

Extracts from leading Newspapers

Reforms Under 32nd GST Council

- Increase in Turnover Limit for Existing Composition Scheme

  The limit of Annual Turnover for availing the composition scheme for Goods has been increased to INR 1.5 crore from the INR 1 crore.

- Compliance Simplification

  The compliance under the Composition Scheme has been simplified. Companies are now required to file only one Annual return but Payment of Taxes shall remain quarterly.

- Higher Exemption Threshold Limit for Supplier of Goods

  The exemption limit for registration and payment of the Goods and Services tax for Goods has been increased from INR 20 Lakhs to INR 40 Lakhs.

- Composition Scheme for Services

  A composition scheme is available for Suppliers of services (or mixed suppliers) with a tax rate of 6% (3% CGST & 3% SGST) that have an annual turnover of INR 50 Lakhs

Source: PIB | Date: 10th January 2019

GST Council Reforms/ Recommendations (33rd)

Real estate sector is one of the largest contributors to the national GDP and provides employment opportunity to large numbers of people.

There are reports of slowdown in the sector and low off-take of under-construction houses which needs to be addressed. To boost the residential segment of the real estate sector, following recommendations were made by the GST Council in its 33rd meeting held today:

i. GST shall be levied at effective GST rate of 5% without ITC (Input Tax Credit) on residential properties outside affordable segment;

ii. GST shall be levied at effective GST of 1% without ITC on affordable housing properties.

EoDB Grand Challenge

To facilitate the establishment of India as one of the top 50 economies in the World Bank's Doing Business Ranking, the Prime Minister launched the EODB Grand Challenge on 19th November 2018 on the Start-up India Portal.

The objective of this challenge is to invite innovative ideas based on Artificial Intelligence, Internet of Things, Big Data Analytics, Block-chain and other cutting edge technology to reform Government processes. The platform for the Grand Challenge is the Start-up India Portal.

Source: PIB | Date: 19th November 2018

In light of the successful pilot edition of the State Start Up Ranking Framework, DPIIT released the second edition of Start Up Ranking for 2019. DPIIT has prepared the framework after several rounds of consultation with State & UT Governments. The framework has evolved distinctly as compared to last year with major emphasis on collecting feedback from start-ups and other important stakeholders from the start up ecosystem. Additionally, as part of the Ranking 2019 exercise, DPIIT will recognize innovative start up programs and initiatives from State/UT Governments.

Trade Facilitation

Import & Sale of Substandard Goods

Import of sub-standard goods and their sale have come to the notice of the Government in the Indian market.

Appropriate action under the Customs Act, 1962 has been initiated.

DGTR has conducted anti - dumping investigations on the basis of duly substantiated petition filed by the domestic industry alleging dumping of goods into the country causing injury to the domestic industry.

Source: PIB | January 7th 2019

Development of Advanced Single Model System

The Union Cabinet, chaired by the Prime Minister on 10th January 2019, has approved the Memorandum of Understanding between India and Japan on Development of 'Advanced Model Single Window'. The model, is based on the best practices in and outside India, with measurable parameters and identify possible obstacles for establishment of the Single Window in India.

The MoU would lead to cooperation between India and Japan on the development of 'Advanced Model Single Window' and its operationalization in Central and State Governments in India for taking administrative procedures necessary for business operations, and to develop a structure in which those procedures are completed in an expeditious manner.

Support & Outreach for MSME Sector

- Relaxing Lending Norms to MSMEs

An online lending portal www.psbloansin59minutes.com with majority ownership of 6 Public Sector Banks (PSBs)/ Financial Institutions (FIs) along with their associated companies, has been launched which facilitates in-principle approval for loans to MSMEs up to Rs.1 crore within 59 minutes from PSBs

Key Features of the Portal

1) Enables borrowers to connect with multiple banks
2) Financial Technology with high level of information security
3) Analysis of data from various data points
4) Loan products in line with scoring models

- Effective Implementation of Public Procurement Policy

The Public Procurement Policy for MSMEs has mandated that every Central Ministry/ Department /PSU shall set an annual goal of minimum 25 % of the total annual purchases from the products or services produced or rendered by MSMEs, from the earlier 20%.

- Programmes & Schemes for MSMEs

The Ministry of MSME has introduced the following key programmes for a more effective business facilitation:

1) MSME SAMADHAAN Portal- for empowering micro and small entrepreneurs across the country to directly register their cases relating to delayed payments.

2) MSME SAMBANDH Portal- to help in monitoring the implementation of public procurement policy for micro and small enterprises.

3) MSME SAMPARK Portal - A digital platform wherein jobseekers (passed out trainees/students of MSME Technology Centres) and recruiters get connected.

4) Digital Payments- to pass on the benefits of the schemes of Ministry of MSME through digital payment gateway.

- Export Promotion Council Established for MSME

Ministry of MSME has established an Export Promotion Cell with an aim to create a sustainable ecosystem for entire MSME development. MSME exports constituted for nearly 49% of the total country's exports for 2017-18. The benefits likely to accrue to the MSMEs

- Evaluate readiness of MSMEs to export their products and services
- Recognize areas where improvements are required in order to be able to export effectively and efficiently
- Integration of MSME into global value chain

Source: PIB | Date: 31st December 2018

Cases Withdrawn under Section 12A of IBC

Under this provision, the adjudicating authority may allow the case to be withdrawn from insolvency proceedings if 90% of the committee of creditors (CoCs) agrees to it.

At the end of December 2018, two years after the IBC came into effect, 586 cases out of 1484 have been settled one way or another. 11% of the cases or approximately 63 cases have been withdrawn under Section 12A, resulting in a more facilitative environment for dealing with Insolvency.

Source: Business Standard| Date: January 28th 2019

INSOLVENCY CASES BREAK-UP

Corporate insolvency Resolution Process at the end of December 2018

Cases admitted under the corporate insolvency resolution process	1,484
Total number of cases closed	586
Closure by	
Appeal	142
Withdrawn under section 12A	63
Approval of resolution plan	79
Commencement of liquidation	302
Cases undergoing resolution	898

Source: Business Standard

PSBs put 1 Trillion Bad Loans on Sale

To expedite the bankruptcy proceedings, various Public Sector Banks (PSB) are planning to sell their bad loans, including those being litigated at the National Company Law Tribunal (NCLT).

Bankruptcy proceedings are going at a slower pace, some of which have gone beyond the 270-day timeline set under the Insolvency and Bankruptcy Code (IBC) mainly because of litigation. With most Non-Performing Assets (NPA) accounts referred to the NCLT exceeding the 270 daylimit, several banks are required to step up provisioning if they remain unresolved by the end of this financial year.

Source: Business Standard | Date: 24th January 2019

Insolvency in India- A Glance of the Essar Steel Case

One of the top 12 bankrupt companies identified by RBI for immediate resolution was Essar Steel. However, its resolution process has been anything but immediate. The case is way past its 270-day timeline, it has been 1 year 3 months and 18 days, and the Supreme Court has reserved its verdict on the case, which is most likely to settle this resolution process Essar Steel's outstanding loan was INR 45,600 cr when it was identified in the 'Dirty Dozen' list of the Reserve Bank of India.

June 12, 2017: The RBI identifies 12 accounts for immediate resolution under the IBC.

June 27, 2017: Insolvency proceedings begin against Essar Steel in National Company Law Tribunal (NCLT).

July 4, 2017: Essar Steel challenges the RBI's decision in Gujarat High Court.

July 17, 2017: After hearing both sides, Gujarat HC dismisses Essar Steel's petition on the RBI's insistence that the company was far from the debt-restructuring process.

August 2, 2017: NCLT admits Essar Steel for insolvency proceedings under the IBC.

October 2, 2017: Expression Of Interest (EOIs) is invited by RP for Essar Steel.

February 12, 2018: First round of bidding takes place; Numetal and Arcelor Mittal submit bids.

March 2018: RP holds both bids ineligible. Numetal & Arcelor Mittal challenge disqualification.

September 7, 2018: National Company Law Appellate Tribunal (NCLAT) holds Numetal's bid valid after it severs ties with Ruias. Arcelor Mittal is asked to clear dues of INR 7,000 crore of Uttam Galva and KSS Petron in three days.

September 10, 2018: Arcelor Mittal revises offer to Rs 42,000 crore, including INR 7,000 crore of past dues. Essar Steel had offered INR 37,000 crore.

October 4, 2018: The Supreme Court gives one more chance, asks Numetal and Arcelor Mittal to submit revised bids after paying outstanding dues in two weeks. If the account is not resolved in eight weeks, it will go into insolvency.

October 16, 2018: Lenders vote for Arcelor's proposal for Essar Steel, Ruias offer full payment to creditors.

January 16, 2018: SBI, a major lender of Essar steel, announced to auction loan of worth INR 15,431 crore

January 29, 2018: NCLT rejected a plea, filed by majority shareholders of Essar Steel

Source: Financial Express & Times of India

Start-up's Exemption from Angel Tax

Facing sustained pressure from start-ups and venture capital funds over the angel tax, the government has relaxed norms for seeking exemptions from the levy.

Angel tax, which was introduced in 2012, is an income tax payable on capital raised by unlisted companies via issue of shares where the share price is seen in excess of the fair market value of the shares sold.

The Government has scrapped the existing mechanism to approve start-ups applying for tax break. While the tax hasn't been abolished outright, as many demanded, start-ups need not go through the interministerial board now.

Instead, new applications will be directly evaluated by the Central Board of Direct Taxes (CBDT). To seek exemption, a start-up will have to apply to DPIIT.

Source: Business Standard | Date: 17th January 2019

SEBI's New Settlement Mechanisms

The Securities and Exchange Board of India (SEBI) has just revamped the settlement mechanism for violation of securities laws which had been first introduced in 2007 and subsequently revised in 2014.

The Settlement process is an alternative enforcement process that is beneficial to the alleged defaulter, investors and the regulator. Settlement allows the enforcement proceedings to be finalized at the earliest without a long drawn litigation while ensuring that the investors' rights are protected. Thus the SEBI (Settlement Proceedings) Regulations, 2018 are likely to make all settlements transactions relating to investors more transparent.

Source: PIB | Date: 21st December 2018

FDI in E-Commerce

The government of India announced changes to the foreign direct investment (FDI) policy for the ecommerce sector that could trigger a shakeup in the way leading platforms such as Amazon and Flipkart conduct business in the country.

Under the new norms, online marketplaces cannot sell products of the companies in which they have stake. The new policy also prohibits these e-commerce companies from entering into an agreement for the exclusive sale of products.

Due to the new guidelines, e-commerce giant, Amazon, has already taken off products from Cloudtail & Appario that have equity investment from Amazon.

IBBI organized a two day Workshop on "Committee of Creditors"

IBBI, jointly with SBI and IICA, organised a two-day workshop on "Committee of Creditors: An Institution of Public Faith" on 15th and 16th February, 2019 in Mumbai. The Workshop was unique and the First of its kind for the benefit of Financial Creditors who comprise Committee of Creditors (CoC) under the Insolvency and Bankruptcy Code, 2016. 28 Senior Officers (General Managers and Executive Directors) of the major Scheduled Commercial Banks participated in the Workshop.

Source: PIB | Date: 17th February 2019

CBIC constitutes 3 Working Groups

The Central Board of Indirect Taxes and Customs (CBIC) has constituted three Working Groups to study and recommend measures to facilitate trade, promote exports and improve compliance.

The Working Groups will focus on; improving the legislative structure of customs tariff, export promotion and facilitation - boosting exports through e-commerce, and enhancing compliance, plugging loopholes to improve revenue collection and curbing refunds fraud. The groups will consult the stakeholders extensively, including the Export Promotion Councils and relevant wings of the Ministry of Commerce and industry.

Source: PIB | Date: 23rd February 2019

JSW Steel declared winning bidder for Bhushan Power and Steel

The committee of creditors of Bhushan Power and Steel Ltd have issued a letter of intent to India's largest private steelmaker JSW Steel Ltd, thus approving the latter's resolution plan for the distressed steel mill. JSW Steel will now pay Rs19,700 crore in upfront cash to Bhushan Power and Steel's lenders and infuse ₹350 crore in the steelmaker to revive it.

Bhushan Power and Steel operates a 3.5 million tonne (mt) steel plant in Odisha. Under its earlier promoter Sanjay Singhal, the company had accumulated debt of more than₹47,000 crore. It was one of firms in Reserve Bank of India's "dirty dozen" list of NPA accounts referred to the bankruptcy courts under the Insolvency and Bankruptcy Code (IBC).

Now, the resolution plan needs to be approved by NCLT Delhi before JSW Steel can complete the acquisition.

Source: MINT | Date: 14th February 2019

FSSAI asks food biz to comply with new packaging norms by July 1

Food businesses need to comply with new packaging regulations that bar use of recycled plastics and newspapers to wrap food articles by July 1, says regulator FSSAI. The new regulations prohibit packaging material made of recycled plastics including carry bags for packaging, storing, carrying or dispensing articles of food. Besides general and specific requirement with respect to packaging materials, the FSSAI said new regulations also prescribe overall migration and specific migration limits of contaminants for plastic packaging materials.

The regulations specify the suggestive list of packaging materials for different food product categories. As per these regulations, packaging materials used for packing or storing the food products should conform to the Indian standards provided in the schedules. The new norms will replace all provisions with respect to packaging requirements prescribed in the Food Safety and Standards (Packaging and Labelling) Regulations, 2011.

Source: Mint | Date: 03rd February 2019

DPIIT invites comments on draft e-commerce policy

The Department for Promotion of Industry and Internal Trade (DPIIT) has invited comments and suggestions from stakeholders on the draft e-commerce policy.

The Ministry of Commerce and Industry's arm, DPIIT, has formulated the draft e-commerce policy that aims to regulate cross-border data flow, fight piracy and counterfeiting and requires all online retailers to have a locally registered business entity. The draft policy seeks to provide for consideration and discussion, a policy framework that will enable the country to benefit from rapid digitization of the domestic, as well as global economy.

The draft e-commerce policy calls for developing more data-storage facilities, data centres and server farms in India. It also favoured creating a legal and technological framework to provide the basis for imposing restrictions on cross-border data flow.

Overall, the new draft addresses six key areas that includes data, infrastructure development, e-commerce marketplaces, regulatory issues, domestic digital economy and export promotion.

Source: KNN India | Date: 25th February 2019

Samsung may go slow on manufacturing in India

Samsung Electronics has informed the government it will have to reduce mobile phone manufacturing in the country unless it delays a Make in India plan for components such as display and touch panels.

The government advanced the Phased Manufacturing Programme (PMP) timetable by two months in an order earlier this month. Instead of starting local manufacturing of the components cited above anytime in 2019-20, the government now wants companies to begin in February 2019 or face 10% import duty. The industry, including Samsung, had earlier inferred that they can start manufacturing these components anytime by March 31, 2020, as stated in the PMP and hence had planned their investment accordingly.

Launched in FY17, the PMP for mobile phones was introduced as Chinese manufacturers have been taking control of the market with imported products. It promotes indigenous manufacturing of cellular handsets and their components to substantially increase value addition within the country.

Samsung stopped television production in India in the last quarter with the government imposing 5% duty on open cell LED panels a critical component accounting for 65% of a sets production value. It imports finished TV sets from Vietnam. The government is said to be thinking of scrapping the duty since it hurts the Make in India initiative.

Source: The Economic Times | Date: 21st January 2019

World Bank's Doing Business Report 2019: Key Findings & Implications for India

CII Analysis

The latest annual edition of the Doing Business Report of the World Bank, assessing the business environment across 190 economies, was released on 31st October, 2018. The Report measures scores of countries through 10 select indicators of the business environment. The score is derived from the Distance to Frontier (DTF) index, which is calculated against the maximum achievable score of 100. Rankings and DTF scores serve a useful purpose in understanding the areas in which the business environment is lacking with respect to the global perspective and for taking corrective policy actions. They also help an entrepreneur decide an investment location based on merits and demerits of various options.

The overall DTF and rankings are based on the performance of a country in the following 10 areas: (i) Starting a Business, (ii) Getting Electricity, (iii) Dealing with Construction Permits, (iv) Getting Credit, (v) Paying Taxes, (vi) Enforcing Contracts, (vii) Registering Property, (viii) Trading Across Borders, (ix) Protecting Minority investors, and (x) Resolving Insolvency (Table 1). The World Bank collects samples from the 2-largest cities of a country whose population exceeds 100 million. In case of India, samples are drawn from Delhi and Mumbai in proportion of 53% and 47%, respectively. The present section attempts to provide some key highlights of the latest doing business report of the World Bank and Review India's performance in greater focus.

Table 1: Doing Business Report Indicator Set

S.No.	Indicator	What is measured
1.	Starting a Business	Procedures, time, cost and paid-in minimum capital to start a limited liability company for men and women
2.	Dealing with Construction Permits	Procedures, time and cost to complete all formalities to build a warehouse and the quality control and safety mechanisms in the construction permitting system
3.	Getting Electricity	Procedures, time and cost to get connected to the electrical grid, the reliability of the electricity supply and the transparency of tariffs
4.	Registering Property	Procedures, time and cost to transfer a property and the quality of the land administration system for men and women
5.	Getting Credit	Movable collateral laws and credit information systems
6.	Protecting Minority Investors	Minority shareholders' rights in related-party transactions and in corporate governance
7.	Paying Taxes	Payments, time and total tax and contribution rate for a firm to comply with all tax regulations as well as postfiling processes
8.	Trading across Borders	Time and cost to export the product of comparative advantage and import auto parts
9.	Enforcing Contracts	Time and cost to resolve a commercial dispute and the quality of judicial processes for men and women
10.	Resolving Insolvency	Time, cost, outcome and recovery rate for a commercial insolvency and the strength of the legal framework for insolvency
11.	Labor market regulation	Flexibility in employment regulation and aspects of job quality

Source: World Bank

Doing Business Performance

Overall Ranking of Some Key Economies

New Zealand has topped the ranking in 2019, scoring a DTF of 86.56, followed by Singapore, Denmark, Hong Kong and Korea Republic. The US and UK featured among the top 10 performers. Some other key countries spread across the ranking in descending order include Australia (18), Canada (22), Germany (24), Thailand (27), Switzerland (38), Japan (39), China (44), Indonesia (73), India(77), Bhutan (81), South Africa (82), Sri Lanka (100), Nepal (110), Pakistan(136), Afghanistan (167), Bangladesh (176), and Somalia(190).

Indicator-wise Ranking of Top-10 Performers

The performance of even top-ranked countries is inconsistent across parameters and they offer large scope for improvement. The top-ranked New Zealand, for instance, ranks 60 in Trading across Borders, 45 in Getting Electricity, and 31 in Resolving Insolvency. Most of the top ranked countries are lagging in Trading across Borders, Getting Credit, Registering Property and Getting Electricity, whereas, in general, doing well in Dealing with Construction Permits, Enforcing Contracts, Protecting Minority Investors, and Paying taxes. This shows that even top ranked countries offer large scope for improvement in overall business environment (Table-2)

Table 2: Top 10 Performers Across Indicators

Economy	Rank	DTF	Starting a Business	Dealing with Construction Permits	Getting Electricity	Registering Property	Getting Credit	Protecting Minority Investors	Paying Taxes	Trading across Borders	Enforcing Contracts	Resolving Insolvency
New Zealand	1	86.6	1	6	45	1	1	2	10	60	21	31
Singapore	2	85.2	3	8	16	21	32	7	8	45	1	27
Denmark	3	84.6	42	4	21	11	44	38	9	1	14	6
Hong Kong SAR, China	4	84.2	5	1	3	53	32	11	1	27	30	44
Korea, Rep.	5	84.1	11	10	2	40	60	23	24	33	2	11
Georgia	6	83.3	2	27	39	4	12	2	16	43	8	60
Norway	7	83	22	22	19	13	85	15	30	22	3	5
United States	8	82.8	53	26	54	38	3	50	37	36	16	3
United Kingdom	9	82.7	19	17	7	42	32	15	23	30	32	14
Macedonia, FYR	10	81.6	47	13	57	46	12	7	31	29	37	30
Avg Ranking			**21**	**13**	**26**	**27**	**31**	**17**	**19**	**33**	**16**	**23**

Source: World Bank

Top-10 Improvers of 2019

Afghanistan featured among the top 10 improvers in 2019, followed by Djibouti, China, Azerbaijan and India. The top-10 improvers include countries ranging from a low-ranking Afghanistan at 167 to a top performing Rwanda at 29, indicating that incremental reforms can be introduced effectively at any level of ranking; lower base, of course, provides larger benefits. Majority of the top improvers (8 of the top-10) benefitted by introducing reforms in the areas of Starting a Business, Getting Credit, and Paying Taxes (Table 3).

Table 3: Performance of Top-10 Improvers Across Parameters

Economy	EoDB Rank	Rise in DTF in 2019	Reforms making it easier to do business									
			Starting a Business	Dealing with Constru -ction Permits	Getting Electricity	Registering Property	Gettin Credit	Protectin MinoritIn v-estors	Payin Taxes	Trading Across Borders	Enforcin Contracts	Resolving Insolvency
Afghanistan	167	10.6	✓				✓	✓	✓			✓
Djibouti	99	8.9	✓			✓	✓	✓			✓	✓
China	46	8.6	✓	✓	✓	✓		✓	✓	✓		
Azerbaijan	25	7.1		✓	✓	✓	✓	✓	✓	✓		✓
India	77	6.6	✓	✓	✓		✓		✓	✓		
Togo	137	6.3	✓	✓	✓	✓			✓		✓	
Kenya	61	5.3				✓	✓	✓	✓			✓
Côte d'Ivoire	122	4.9	✓	✓			✓		✓		✓	
Turkey	43	4.3	✓	✓			✓		✓	✓	✓	✓
Rwanda	29	4.2	✓		✓	✓	✓			✓	✓	✓

Source: World Bank

Ranking of South Asian Economies

South Asian economies have shown a great deal of variability in the ranking, ranging from India at 77 to Bangladesh at 176 (Table 4). Only 3 economies from the region - India, Bhutan and Sri Lanka - could feature among the top 100 economies of the world. The region, thus, has a large scope for improvement in the overall business environment, which would help in addressing the issues of unemployment and poverty.

Table 4: Rank & Score of South Asian Countries (2019)

Economy	EoDB Rank	DTF
India	77	67.2
Bhutan	81	66.1
Sri Lanka	100	61.2
Nepal	110	59.6
Pakistan	136	55.3
Maldives	139	54.4
Afghanistan	167	47.8
Bangladesh	176	42

Source: World Bank

India's Performance in Doing Business 2019

Key Achievements

Improving its ranking to the 77th position from the 100th position last year, India recorded an impressive performance in the Doing Business Report 2019 (Table 5). This came on the back of 23 points jump recorded in 2018 and 65 points in the previous 4 years since 2015.

Currently, India is among the top 25 economies in 3 areas - Protecting Minority Investors (7), Getting Credit (22), and Getting Electricity (24). It is among the top 80 economies in additional 2 indicators - Dealing with Construction permits (52) and Trading across Borders (80), after recording a surge in improvement of 129 and 66 spots, respectively over the last year.

Table 5: India's Doing Business Ranking (2019)

Indicator	DB 2019 Rank	Change in Ranking over last year
Overall	**77**	**23**
Dealing with Construction Permits	52	129
Trading across Borders	80	66
Starting a Business	137	19
Getting Credit	22	7
Getting Electricity	24	5
Enforcing Contracts	163	1
Paying Taxes	121	-2
Protecting Minority Investors	7	-3
Resolving Insolvency	108	-5
Registering Property	166	-12

Source: World Bank

Major Concern Areas

Of the 10 indicators, India offers considerable scope for improvement in the following 5 areas: (i) Registering Property (166), Enforcing Contracts (163), Starting a Business (137), Paying Taxes (121), and Resolving Insolvency (108). In the areas of Paying Taxes and Resolving Insolvency, the Government of India has been introducing high doses of reforms, which should start bearing fruits in the ranking in the near future. However, special focus needs to be given to the indicators of Registering Property, Enforcing Contracts and Starting a Business, where there is still a long ground to cover.

Registering property in India is a cumbersome, time consuming and costly exercise. Currently, it requires 9 procedures, 69.1 days, and 8.3% of the property value for registration and mutation. The biggest challenge in the area is the multiplicity of stakeholders involved in the registration process, who do not work in cohesion owing to the lack of digitization and integration of data across relevant departments. A buyer of land does not have a single interface portal to check deeds, land records, cadastral maps, court records, property tax records and mortgages to ensure a risk-free deal.

Similarly, in **Enforcing Contracts**, it takes around 1445 days (nearly 4 years) to resolve a commercial dispute against only 164 days in Singapore. Further, it costs 31% of the claim value to enforce a contract in India. Such a high cost and lacking contract enforcement mechanism raise the cost component of doing business, adversely affecting the overall competitiveness. The major challenges faced by businesses include lack of digitized court procedures at pan-India level, piling of cases, lack of adequate courts' capacity, and lack of adherence to timelines.

Starting a Business in India, despite recording a significant improvement of 19 positions in 2019, continues to remain a concern. The number of procedures to start a business is still 10; double of those in OECD high income economies. Starting a business takes around 17 days as compared to around 9 days, which is again nearly double of those in high OECD income countries. Among other key measures, the government may consider reducing applicable procedures by clubbing GST, EPFO and ESIC registration with the SPICe form. It is also important that the online Single Window System works effectively across states, allowing for online application, status tracking, deemed approval and payment.

Way forward

India aspires to join the rank of top 50 nations in the doing business report in the next two years or so. While it is fast approaching the destination, several areas of indicators, like Registering Property, Enforcing Contracts, Starting a Business etc, require special focussed attention, where the current low base would allow us to score rather easily. What would also be important is to focus more on effective implantation of business reforms in areas such as Trade Facilitation, Resolving Insolvency, and paying taxes.

Recent Key EoDB Reforms in India

This Section captures the key initiatives undertaken by the government on the Ease of Doing Business front.

1 Starting a Business

- **Reduced contribution for Provident Fund**

  Effective contribution for Provident Fund has been reduced from 0.65% to 0.5%, leading to a reduction in the cost burden for employers.

- **Online Single Window System (SWS)**

  Various states have established an online state-centric Online SWS with functionality for online application submission, payment, tracking and issuance of approvals/renewals across various authorities, mandating all applications to be submitted online.

2 Registering Property

- **Digitized Cadastral Maps**

  In Delhi, fully digitized cadastral maps of all 358 Revenue villages are available at http://gsdl.org.in/revenue/index.aspx. Additionally, 100% of maps of land plots of the 240 villages under Delhi Development Authority (DDA) have been scanned and put online for public use. Combining the area cover of Department of Revenue and DDA, maps of 81% of land under Delhi have been put online for public use.

- **Grievances Management System**

  In Delhi, RGMS (Registration related Grievances Management System [http://rgms.delhi.gov.in]) has been developed for filing complaints for any grievance pertaining to Sub-registrar Office (immovable property registration agency) or Cadastral maps. The complaints against the SR Offices are reviewed by the Senior Officers of the Revenue Department, GNCTD and corrective measures are taken as necessary.

- **Tax Dues on Property**

  In Mumbai, tax dues on property can be checked online on Municipal Corporation's website. By furnishing the property card number, one can access details of (i) period for which property tax is due, (ii) amount of tax due against the property, online within minutes thereby requiring less than a day for the same.

- **Geographic Information System (GIS)**

  Several states have developed and implemented a GIS to provide details about the land earmarked for industrial use across the State with additional information about available infrastructure such as road, water, electrical substation and poles, proximity to national/state highways, railway lines etc. for all industrial land banks of State.

3 Dealing with Construction Permits

- **Common Application Form (CAF)**

  In Delhi & Mumbai, all departments concerned with issuing Construction Permit have been integrated with the Online Building Permit System (OBPS). A Common Application Form (CAF) is required to be filled along with requisite documents and payment to apply for the permit.

- **Discontinued 'No Tax Dues' Certificate**

  In Delhi, the requirement of obtaining 'No Tax Dues' Certificate for acquiring building plan approval has been discontinued. Delhi has also done away with requirement of submitting notarized affidavits, which has reduced the documentary compliance and further simplified the process of obtaining Construction Permits.

- **Exemption from obtaining NOCs**

  In accordance with the risk framework adopted, 'low risk buildings' are exempted from obtaining availing NOCs from Delhi Pollution Control Committee. Moreover, Delhi has removed requirement of getting NoC from Delhi Jal Board for building plan approval

- **Comprehensive state-level uniform building code**

  Majority of states have implemented a state-wide building code/building by-law valid across Municipal Corporations, Municipalities, Nagar Panchayats and areas covered by Urban Development Authorities in the State. It also includes provisions for risk-based classification of buildings, accreditation programs and clear responsibilities for professionals including architects and engineers engaged in the construction process and mandatory qualifications for architects and structural engineers.

- **Conflict Resolution Mechanism**

  States like Andhra Pradesh, Haryana, Uttar Pradesh, among few others, have set up resolution mechanism for various types of conflicts arising during the processes for land and construction permits.

- **Online Approval of NOCs**

  Several NOCs/licenses like Fire, Tree felling, and Tree Transit are being provided online on respective authorities' website or through the State Single Window System, implemented by more than half of the states. Information about the procedure, comprehensive list of documents required, mandated timelines and final signed approval certificate are provided on the portal itself.

4 Trading across Borders

- **Enhanced Risk Management System**

  Enhanced facilitation through Risk Management System (Facilitated Bill of Entry) by simplification of Risk Management System inspection process resulting in reduced time taken for clearance.

- **Upgradation of equipment at JNPT**

  In order to handle the rising number of cargo at JNPT, JNPT has added 15 e-RTGCs (Rubber Tyre Gantry Cars) to improve the operational efficiency within the JNPT premises. The eRTGCs are highly efficient and capable of continuous operation without a break. The installation of new e- RTGCs would help in quicker handling of cargo at the JNPT.

5 Enforcing Contracts

- **State Commercial Courts**

  Few states have established specialized commercial courts under the High Court to hear commercial disputes, with time standards for various court events like first hearing, filing of the statement of defense, completion of the evidence period, submission of the final judgment, among others.

- **Case Management Tools for Judges**

  Various case management tools have been provided to judges of the lower courts in Mumbai and Delhi like:

  (i) Send notifications to lawyers;

  (ii) View court orders or judgements in a particular case;

  (iii) To automatically generate hearing schedule for all cases on their docket;

  (iv) To semi-automatically generate court orders;

  (v) To track status of cases on their docket;

  (vi) To view court orders and judgments in a particular case;

  (vii) Access to case law online, is facilitated for the judges;

- **Case Management Tools for Lawyers**

  Dedicated section on electronic case management tools for lawyers has been created on the district court websites of Delhi & Mumbai:

To receive notifications:

(i) To view court orders and decisions in a particular case;

(ii) Access forms to be submitted to the court;

(iii) To track the status of a case;

(iv) View & manage case documents;

(v) File briefs & documents with the court;

(vi) Access court orders & decision of a given case;

(vii) Access laws, regulations & case laws

Conclusion

There has been a surge in the pace of reforms being implemented by the government, to drive forward the Ease of Doing Business endeavour. Apart from the above-mentioned policy reforms, significant reduction in the number of procedures, cost incurred, and time taken in the approval process has also been instigated across indicators. The recent release of World Bank's Doing Business Ranking of 2019 indicates the continuous effort being taken by the government to evolve the business environment. Several central level business policy reforms and changes have provided the required kickstart to the Ease of Doing Business initiative. Several states have started to introduce business friendly initiatives and are also focusing on the delivery of reforms at the ground level. With the current pace of development, the path towards gaining a significant jump next year as well is evident.

Start Up India – The State Startup Rankings (2018)

An Overview

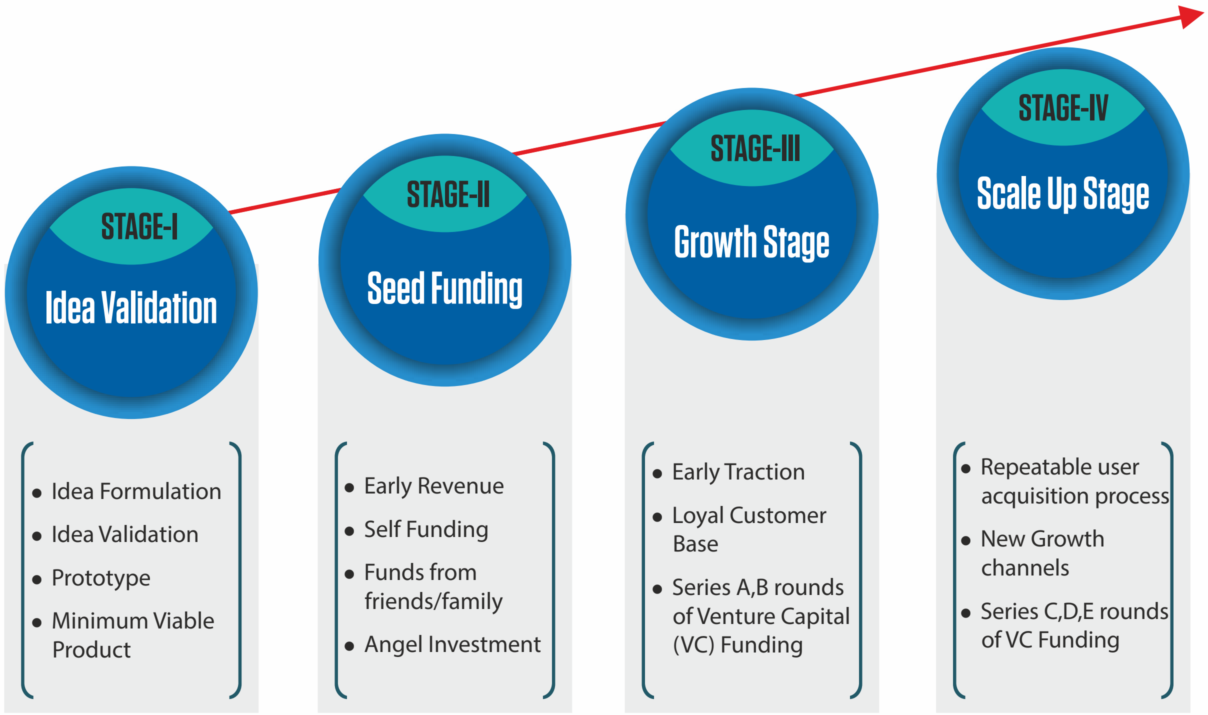
The Startup India initiative of the Government of India was launched in January 2016, with the intent to stimulate a secure ecosystem for nurturing innovation and entrepreneurship in the nation. The State Startup Ranking Framework was then conceived by the Department for Promotion of Industry and Internal Trade (DPIIT) in 2018, with a view to encourage states and union territories to take dynamic steps towards facilitating the startup ecosystem, and to promote a healthy competition between states to further learn, share and adopt best practices.

The result of the State Startup Ranking framework has been positively enriching and educative for all the participants, including industry. It has boosted the performance of states in the startup India arena and has also provided several knowledge sharing mechanisms for emerging states.

The Startup India Initiative- A Glimpse

In the 21st century global business scenario, it is of vital importance that every business is adaptive and innovative. When an emerging company, with a core technological component and high growth potential, strives towards innovation, it is termed as a "Startup". Over the years, countries have understood that a sustained environment for startups leads to fruitful economic benefits in the long-run.

There are several stages involved in the incorporation of a startup company. The following Section highlights these stages of setting up a startup, along with the key requirements at each stage.



To encourage the startup environment and to help facilitate the stages of a startup, 9 key components, that sum-up an entrepreneurial ecosystem, have been identified. These components are common across most startup ecosystems and have proven to be indispensable in the growth of a startup. (Fig-1)

Source: National Report on State Startup Rankings

The Startup India Initiative- Progress So Far

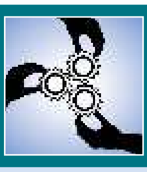
The government's persistent efforts in creating a qualitative environment for Indian startups have already produced exceptional results, which is well reflected in the growth in the number of successful startups.

The startup India ecosystem comprises of **14,600+** startups, approximately **270 incubation** and business acceleration programs, **200 global and domestic venture capital firms** that support homegrown startups. India also has a fast-growing community of **231 angel investors** and 8 angel networks, which has led to the nation being home to the **3rd largest unicorn community**. 16 high valued startups have raised over $17.27 billion funding, with an overall valuation of $58 billion.

The acknowledgement of startups as a vital segment of the Indian economy has led to the increase of startups not only in tier 1 cities, but also in tier 2 cities, thereby, boosting employment, per capita output and development. Being the 3rd largest startup ecosystem in the world and one of the largest consumer markets, Indian startups have touched every corner of the industrial sphere, ranging from IT services to construction and real estate.

Startup India Objectives & Growth Plan

The Government's recognition of the role of startups in the economy has ushered a series of initiatives to ensure that the spirit of entrepreneurism trickles down to every state, firm and individual. Some of the most notable initiatives introduced by the government incudes the following:



Collaboration with other Government Departments & Ministries

Swachh Bharat Challenge

Startup India worked with the Ministry of Water and Sanitation to recognise startups spearheading novel innovations in the field of waste management and sanitation. The initiative helped the Ministry to identify solutions for environmental challenges.

Agriculture Grand Challenge

Startup India worked with Ministry of Agriculture to help them identify 24 startups working across 12 different problems the agriculture sector currently faces.

Constitution Broad-based Inter-Ministerial Board (IMB)

DPIIT has constituted a broad-based Inter-Ministerial Board (IMB) as part of the initiative to boost startups. The IMB considers applications of startups for claim of various tax incentives under the Income Tax Act, 1961.

Start Up India Yatra

The Yatra was conducted through collaboration between DPIIT and select states by providing aspiring entrepreneurs a platform to realize their startup dream by getting incubated at excellent facilities and taking their idea to the next level.

Highlights

- The Yatra covered 9 states and 99 districts.
- Aims to scout grass root level entrepreneurs from the non-metro cities of the country.
- 8-10 boot camps organized in tier 2 and tier 3 cities where participants attended an ideation workshop and pitched their ideas.
- 685 incubation offers, and cash prizes worth INR 42.6 lakhs have been awarded.

Information Collected from: National Report on State Start-up Rankings

State Startup Ranking Framework

India is a diverse nation with a plethora of resources, knowledge hubs and opportunities spread across 29 states and 7 union territories. Armed with this massive potential, it was imperative for the success of the startup movement that the states exchanged and adopted good practices undertaken by each other. DPIIT has encouraged states towards the integration of individual efforts to result in a strong startup ecosystem for entrepreneurs.

With the intent to utilize the power of competitive federalism, as a first of its kind measure, DPIIT, along with the startup India team, has identified 7 pillars, based on 4 critical objectives, to serve as a foundation for the ranking framework.

Key Objectives of the Ranking Framework

- Facilitate states to identify, learn & replicate good practices.
- Bring about a common platform to identify the progress made by states.
- Promotion of the startup ecosystem.
- Encourage healthy competition among states & direct the states to work proactively.

International Partnerships

The objective of the workshop was to introduce the Startup India initiative, the State ranking framework and the 38 action points and assessment methodology.

During these workshops, the State Government officials and State Startup teams were given a live demo of the State Start-up ranking portal.

As a result of these visits, a deeper engagement was developed between the State Government and DPIIT. Furthermore, State government officials also proposed opportunities of engagement with DPIIT by way of:

- Setting up toll-Free helpline and website.
- Support in policy formulation and drafting operating guidelines.
- Support in identifying and engaging Startup ecosystem stakeholders.

Video Conferences

5 rounds of video conferences were organized with all the states during March-May 2018. Video conferences helped in understanding the initiatives taken by the states post the launch of ranking framework and to resolve any queries related to compliance with the framework guidelines.

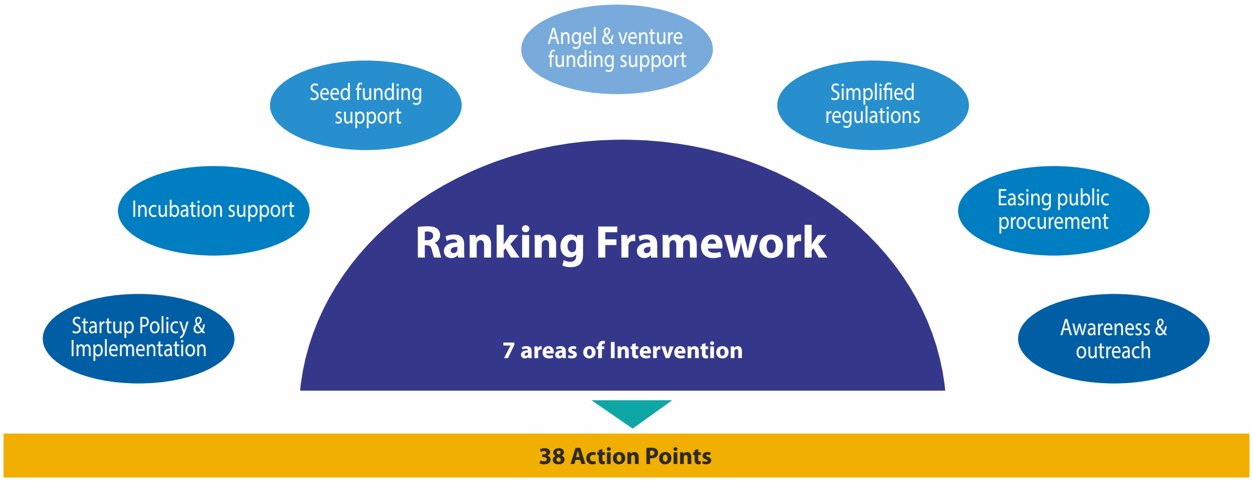
Dedicated team members from DPIIT and each State Government were nominated to facilitate these interactions and successful implementation of the exercise.

This provided a platform for states to suggest amendments in ranking guidelines for certain action points.

DPIIT acknowledged all such suggestions and issued a clarification document on 28th March 2018 on the ranking portal.

Information Collected from: National Report on State Start-up Rankings

Figure: 2 Ranking Framework- 7 Areas of Intervention



Source: National Report on State Startup Rankings

The State startup ranking framework measures states on 38 indicators across 7 pillars and rates the overall efforts by states on a scale of 0 to 100.

Pillars of Framework	Number of Indicators	Number of Feedback Based Questions	Pillar Wise Score
Start-up policy and implementation	13	7	17
Incubation support	3	0	20
Seed funding support	2	0	15
4 Funding support angel and venture funding	3	0	10
Simplified regulations	4	2	13
Easing public procurement	5	5	14
Awareness and outreach	8	3	11
Total	**38**	**17**	**100**

Source: National Report on State Startup Rankings

Implementation of the Ranking Framework- Capacity Development

To boost the performance of states, several measures were taken to develop and facilitate the current state capacities. Some of these reform measures have been mentioned below:

Pairing of States for Intensive Mentoring

In the process of studying State Startup ecosystems, it was observed that many states are ahead in the startup ecosystem learning curve and have undertaken significant efforts to create a cohesive startup community. Realizing the need for handholding and mutual learning, DPIIT took an initiative and paired together states and UTs to facilitated mentoring.

On overview of the mentor state paired with another state is as given below:

Mentor	State Paired State
Andhra Pradesh	Chattisgarh, West Bengal
Kerala	Tamil Nadu, Lakshwadeep

International Exposure Visits

USA Program- Key Learning from the Visit

- Importance of industry academia linkage
- Establishing India mentor network
- Need for international exposure to Start-ups or entrepreneurs
- Development of Fab Labs
- Easing Regulation

Telangana	Goa, Assam, Odisha
Karnataka	Uttarakhand, Bihar, Himachal Pradesh
Gujarat	Uttar Pradesh, Maharashtra, Daman and Diu, Dadra
Rajasthan	Delhi, Haryana, Madhya Pradesh
West Bengal	Nagaland, Andaman and Nicobar Islands, Sikkim
Odisha	Jharkhand, Meghalaya
Assam	Tripura, Manipur Arunachal Pradesh, Mizoram
Haryana	Punjab, Chandigarh Jammu & Kashmir
Tamil Nadu	Puducherry

Information Collected from: National Report on State Start-up Ranking

Israel Program- Key Learning from the Visit

- Creation of physical space
- Anchor investment by the Govt
- Industry-incubator partnership for B2B development
- Tech commercialization & legal frameworks

Result of the State Startup Ranking Exercise

27 states and 3 Union Territories participated in the 1st edition of the State Startup Ranking exercise. After the phenomenal efforts of the DPIIT, the results were announced, based on the performance of the states on 7 pillars, and were categorized and scored into 6 grading groups according to the evaluation. The best performer turned out to be Gujarat, and 4 other states were categorized as "Top Performers".

BEST PERFORMER	• GUJARAT		100 Percentile
TOP PERFORMERS	• KARNATAKA • KERALA	• ODISHA • RAJASTHAN	With more than 85 percentile but less than 100 percentile
LEADERS	• ANDHRA PRADESH • BIHAR • CHHATTISGARH	• MADHYA PRADESH • TELANGANA	With more than or equal to 70 percentile but less than or equal to 85 Percentile
ASPRIRING LEADERS	• HARYANA • HIMACHAL PRADESH • JHARKHAND	• UTTAR PRADESH • WEST BENGAL	With more than 50 Percentile but less than 70 Percentile
EMERGING STATES	• ASSAM • DELHI • GOA • JAMMU & KASHMIR	• MAHARASHTRA • PUNJAB • TAMIL NADU • UTTARAKHAND	With more than 25 Percentile but less than or equal to 50 Percentile
BEGINNERS	• CHANDIGARH • MANIPUR • MIZORAM • NAGALAND	• PUDUCHERRY • SIKKIM • TRIPURA	With less than or equal to 25 Percentile

Source: National Report on State Startup Ranking

Conclusion

The State Start-up Ranking exercise has brought about a poignant change in the Indian economic arena. Not only has the ranking exercise benefitted states via several developmental activities, but it has also directed the nation on the path of becoming an important startup hub. It also provides for knowledge sharing on best practices and simplification of the complexities of the startup scenario. The effects of the exercise have touched every corner of India and have established systems for the development of the entrepreneurial ecosystem.

From The Policy Makers

Trade Facilitation in India

Pranab Kumar Das
Chairman, CBIC

About the Author

Mr. Pranab Kumar Das, IRS, is the Chairman of Central Board of Indirect Taxes & Customs, Government of India

The relentless and transformational reforms undertaken by the government of India deserve special mention as India leapfrogged to an all-time highest rank of 77 this year from the rank of 142 in 2014 in the recently released Doing Business Report 2019 of World Bank. This significant improvement can be attributed to the wide ranging reforms introduced in the sphere of 'Trading Across Borders' where the country's ranking took a quantum leap from the 146^{th} to the 80^{th} position, the highest by any nation.

Key Trade Facilitation Reforms

The huge leap in the ranking is a result of collective and sustained efforts by Customs, Partner Government Agencies (PGAs), and various stakeholders in supply chain logistics such as freight forwarders, container freight stations, shipping lines, railways and transporters.

The major reform measures, which have facilitated the improvement in the trading environment, include:

(i) mandatory filing of import declaration within specified time, which ensured improvement in advance filing and reduction in dwell time;

(ii) introduction of e-Sanchit, making the entire process of consignment clearance faceless and paperless;

(iii) enhanced facilitation through Risk Management System (RMS) by simplification of RMS inspection process, resulting in reduced time taken for clearance;

(iv) promotion of Direct Port Delivery (DPD) for imports;

(v) promotion of Direct Port Entry (DPE) for exports;

(vi) promotion of Authorized Economic Operator (AEO) scheme to provide tangible benefits in the form of faster Customs clearances and simplified Customs procedures to those business entities who offer a high degree of security guarantees in respect of their role in the supply chain;

(vii) implementation of electronic sealing for containers by exporters under self-sealing procedure to strengthen the existing RMS and create a trust-based environment using RFID tamper proof e-seals in place of physical seals used earlier, which has also reduced the time associated with the clearance of export containers.

Implementation of these measures has resulted in reduction of approximately 300 hours in import and export clearance time and a huge saving of more than USD 300 in transaction costs, thereby, benefitting the industry and helping India improve its Doing Business Ranking.

The huge leap in the ranking of trading across borders is a result of collective and sustained efforts by Customs, PGAs, and various stakeholders in supply chain logistics....To help realize the Hon'ble Prime Minister's vision of taking India within the top 50 countries in Ease of Doing Business, all stakeholders should collectively endeavour to lower the transaction cost and reduce the release time of the cargo.

National Trade Facilitation Action Plan 2017-2020

The reform measures are being monitored at the highest level under the aegis of the National Trade Facilitation Action Plan 2017-2020, which aims to improve the overall efficiency of cross-border clearances. In pursuance of the goals spelt out in the National Trade Facilitation Action Plan 2017-2020, Customs, in conjunction with other border agencies and stakeholders, have been making significant effort to bring down the cargo release time through both policy and procedural interventions to remove bottlenecks. The improved inter-ministerial co-operation in pursuance of various trade facilitation measures, including the Single Window, active participation by the industry and regular monitoring by Customs through Time Release Studies, have made this significant and positive change in perception of the trade and international analysts. This change of perception and the impact of reforms undertaken has been taken note by the World Bank and given cognizance in its 2019 report.

Smart borders for seamless trade, travel and transport

In a significant development, India has taken over as the Vice-Chair of the Asia Pacific Region of the WCO for a period of two years with effect from July, 2018. This year's theme of World Customs Organization (WCO) for the International Customs day is smart borders for seamless trade, travel and transport. The theme reverberates with the various reform measures that Customs have initiated in the context of reducing transaction time and costs of import and export clearance coupled with intensive trade as well as passenger facilitation efforts. The focus is not just on cross border movement of goods and the means of transport, it is equally about passenger facilitation. Despite growing quantum smuggling of gold, drugs and other articles, it is pertinent to mention that more than 99% of the International passengers get cleared through the Green Channel. Notwithstanding our rigorous efforts in facilitation, we are not losing sight of the responsibility put on us to protect our borders and ensure safety and security of our country. This required a smart balancing of enforcement and facilitation through effective policy interventions, technological advancements and smart execution. That is how this year's theme of Smart Borders by WCO for the International Customs day is most apt and appropriate at this juncture.

Way Forward

While a lot has been done, this is not the time to be complacent; I am reminded of a modest appeal that I made to all by quoting Dr. Mandela's Long Walk to Freedom, "I have discovered the secret that after climbing a great hill, one only finds there are many more hills to climb".

The Hon'ble Prime Minister's vision of taking India within the top 50 countries in Ease of Doing Business is the immediate challenge before us. In making the vision possible, all stakeholders should collectively endeavour to lower the transaction cost and reduce the release time of the cargo as a precursor to make it within the top 50^{th} rank. Harnessing Artificial Intelligence and Block Chain Technology would go a long way in creating a smart border and the Central Board of Indirect Taxes and Customs (CBIC) is geared to use these tools to facilitate trade, travel and transportation of goods in the years to come.

Ease of Doing Business in India

An Interview

Shailendra Singh
Additional Secretary, DPIIT

About the Author

In conversation with Mr Shailendra Singh, Additional Secretary, Department for Promotion of Industry and Internal Trade (DPIIT), Government of India

Q1. India has registered a sharp improvement in the Doing Business Report of the World Bank from 142 in 2014 to 77 position in 2019. What are the major initiatives that can be attributed for such a significant improvement in the country's performance?

Ans: India's improvement in the ranking is a result of the constant effort of the government, at both Central as well as state levels. Some of the key initiatives undertaken by the government include:

i) Implementation of an online single window system for construction approvals;

ii) Implementation of a Single Window Interface for Facilitating Trade (SWIFT) on ICEGATE portal including e-Sanchit that enables electronic filing of documents;

iii) Introduction of Single form SPICe for the services i.e. Name reservation, Company Incorporation, DIN, PAN, and TAN;

iv) Introduction of GST, which has replaced multiple indirect taxes with a single tax;

v) Introduction of Insolvency and Bankruptcy Code, 2016

Q2. With India now aiming to join the league of top 50 nations in the Doing Business Report of the World Bank in the next 2 years or so, what major reforms are being undertaken by the government?

Ans: Introduction of Goods and Services Tax (GST) being the biggest indirect tax reform came into effect from 01 July, 2017. The assessment period for the Paying Taxes indicator considered in the World Bank's Doing Business Report 2019 is from 1 January, 2017 to 31 December, 2017, thus the recent report which was released on 31 October, 2018 considered pro-rated impact of GST implementation. Further Goods and Services Tax had teething challenges during the assessment period which are now streamlined and time required to prepare and pay taxes has been substantially reduced. The impact of reduced time and smoother transactions is expected to help India to rank higher in the upcoming World Bank's Doing Business Report 2020. Moreover the Government is also taking steps to reduce the number and payment of total taxes being borne by the businesses in various states, which will eventually result India to rank better in World Bank's Doing Business Report. The government is also working towards integrating GST, EPF and ESI registration with MCA's SPICe form.

Investing in India and dealing with government departments has become easier. While there are areas where India needs to deliver better results, the intent is clear i.e. to tackle all bureaucratic challenges by the horns. India's strong performance in last two years, jump from 130 to 77, is a result of a determined campaign by 20+Government departments to streamline the country's bureaucratic environment towards a better goal.

Another important indicator where India needs to improve is 'Enforcing Contracts'. In order to make judicial and court proceedings faster and efficient, judges and lawyers are being equipped with electronic case management tools. Court automation will help us to achieve a better rank in the 'Enforcing Contracts' indicator. Further, dedicated commercial courts are being set up to enable faster resolution of commercial cases. More cases are expected to be dealt by the Insolvency and Bankruptcy Code (reorganization) rather than liquidation in coming years, which will help improve the recovery rate in the near future.

To make the process of registering a property more efficient, concrete steps are being undertaken, which includes automation of processes, enhanced transparency of processes and digitization of land records by way of digitization of deeds, titles, and cadastral maps for every plot. These initiatives will positively impact the rank of 'Registering Property' indicator in the World Bank's Doing Business Report. Government is working towards providing smoother and transparent processes for imports and exports. All these measures are expected to sustain the improvement in doing business ranking, going forward.

Q3. What according to you will be the top 3 areas of ease of doing business, which should be given special focus?

Ans: The monumental rank jump of India in the Doing Business Report 2019 has been the result of constant push by the highest levels. However, the top 3 areas which require special emphasis going forward are Registering Property, Enforcing Contracts and Starting a Business. India is ranked 166 as per the latest Doing Business report 2019 on 'Registering Property'. A concerted effort is required from all the concerned departments to achieve a common goal i.e. to improve the experience of a user each day. Enhancing the quality of land administration, including digitization of the land records, making the processes clear and transparent and providing online and faster approvals, will remain the key.

Enforcing Contracts is another focus area as we are ranked 163 in this parameter out of 190 economies. By setting up commercial courts, we are hopeful that the time taken to resolve a commercial dispute would be considerably reduced in near future, leading to effective dispute resolution. The benchmark of a healthy economy is how easy it is to start a business in that country. We want India to be the most lucrative business destination and are working towards making it even simpler than what it is today. Hence, multiple departments are already shaking hands to bring up one portal for all approvals required to start a business.

Q4. Which are the global best practices of the top performing countries that India has a scope of learning from?

Ans: While all the indicators require the Government to implement learnings from best practices. Two major indicators i.e. Enforcing Contracts and Registering Property should have target-based focus, learning from practices in several other countries.

a) **Enforcing Contracts -** Court automation in connection with the availability of electronic filing of the initial summons, electronic service of process and electronic payment of court fees is a good practice followed in many countries. These features not only streamline the process of commencing a lawsuit, but they also provide other advantages such as convenient and reliable process, less in person interactions, reducing the scope of corruption. These features also reduce the cost associated with court proceedings for both users as well as courts. Studies show that after electronic filing is introduced in courts, the accessibility of information increases and access to and delivery of justice improve considerably. Today electronic filing of the initial complaint is permitted in 36 economies. Similarly, electronic service of process, which entails initial summons being served by e-mail, fax or text messaging, is available in 33 economies. A credible system for random assignment of cases minimizes the chances for corruption. While almost all economies provide for the random assignment of cases, only 53 have a fully automated process.

b) **Registering Property -** Adopting digital means to keep property records and to carry out all processes as they take less space, and backup copies ensure that property records will not be compromised in the event of natural or other disasters. Also, transferring property takes about half as much time in economies with computerized registries as in those without them. All 32 OECD high-income economies have electronic registries. Eleven, including Denmark, the Netherlands and New Zealand, offer electronic registration. In South Asia and Sub-Saharan Africa, by contrast, 71.4% of economies still have paper-based systems. Unsurprisingly, OECD high-income economies have the fastest property registration, taking 22 days on average. 51 economies, including Mauritius, Netherlands, Sierra Leone, Portugal, Samoa and Swaziland, have computerized their registries in the past 10 years. As going electronic in one-go is not a small task, a gradual approach would be more appropriate. New Zealand digitized its property records between 1997 and 2002 and then introduced electronic registration. However, by 2005, only about half of property transactions were being submitted electronically. In response, a law was passed in 2008, making electronic registration mandatory. Registration can now be completed in just two steps and at a cost of 0.06% of the property value.

Q5. While the government has undertaken transformational reforms in the indicators 'Starting a Business' and 'Paying Taxes', we are not amongst the top performing nations. So, what are the government's plans to improve India's ranking in these areas?

Ans: Under the indicator 'Starting a Business', the government has undertaken procedural re-engineering to simplify the processes. The Distance to Frontier on this indicator is 80.96, which shows that India is close to the international best practices. The low rank is a reaction of high competitiveness among countries on this indicator. Government of India has already integrated various registrations (PAN, TAN, DIN etc) through a single form i.e. SPICe (Simplified Proforma for Incorporating Company electronically). Still, as per the Doing Business Report 2019, 10 procedures are required to start a business in India. Now, the government is taking all necessary steps to further reduce multiple procedural requirements. We are in the process to integrate other registrations such as GST, labour registrations etc. with SPICe. Also, removal of requirement for bank account details for any government registrations will help us move forward in the indicator next year.

As per the World Bank's Doing Business Report 2019 published on 31 October, 2018, India ranked 121 out of 190 economies on paying taxes parameter. The assessment period for the Paying Taxes indicator considered in the latest doing business report is from 1 January, 2017 to 31 December, 2017. The indicator measures number of payments, time required to prepare, and pay taxes and total tax and social contributions made by a company. Introduction of Goods and Services Tax (GST) being the biggest indirect tax reform came into effect from 01 July, 2017. As Goods and Service Tax system was a new system, and it takes time to settle. Users also needed time to get familiarized with the new processes, return formats etc. Also, as GST is a fully online system, there were some IT issues initially which were resolved later. Therefore, the time required to prepare, and pay taxes has been increased in the latest doing business report.

However now around after 1.5 years of its introduction, the entire GST system has resolved all its glitches and user has also become familiarized with the new processes, return formats etc., which has substantially reduced the time required to prepare, file and pay taxes. The impact of reduced time will help India to rank higher in the next Doing Business Report, 2020. Moreover, the government is also taking steps to reduce number and payment of total taxes being borne by the businesses in various states, which will also help in the ranking.

Q6. DPIIT has been assessing and ranking states since 2015 as part of its Business Reform Action Plan (BRAP), which has helped in growing competitive federalism among states to improve the business environment. What are key features of the next survey and how is that going to be different from the previous ones?

Ans: In 2017-18, the reform exercise was updated to 372 action points with additions introduced such as Central Inspection system, Trade License, Registration under Legal Metrology, and Registration of Partnership Firms & Societies.

An important addition to methodology under BRAP 2017-18 has been the inclusion of a feedback exercise wherein feedback was sought on 78 reform points from actual users. The respondent data has been provided by the States / UTs across various categories viz. Architect / lawyers / new and existing business and electrical contractors. The reform plan's implementation and evolution has been successful in inculcating among States / UTs' aspiration to improve the business regulatory environment.

Assessment under Business Reform Action Plan (BRAP) 2019 shall be based only on the feedback received from service users and industries. The draft Action Plan has been thoroughly revised and complied into an 80-point document, considering 100% feedback-based scoring and comments received from States.

The 80 point BRAP 2019 has been substantially derived from the 372 points BRAP 2017-18. However, 7 new points have been added to the areas covered under BRAP 2017-18.

On 11 October, 2018, an 80-point BRAP 2019 was shared with States and UTs. The States / UTs have been requested to implement the reforms by 28th February, 2019 and update on the BRAP Portal. The revised plan has been designed to obtain feedback on all reform points. States / UTs will be classified on the basis of the feedback score only. However, States / UTs are still required to submit evidence of implementation of reform points on the EoDB portal. Feedback will be sought only on those reform points, which have been implemented and evidence is submitted by the State / UT. No feedback will be solicited on other points.

EoDB Portal will display only feedback score since evidence based scoring will not be done. The findings of the feedback exercise will be communicated individually to States / UTs by DIPP and published on the portal.

Reform Point	Area	Sub Area	Recommendation	Department
42	Labour Regulation-Enablers	Registration and renewal under The Shops and Establishment Act	Eliminate the requirement of Renewal of registration	Department of Labour
55	Tax enablers	GST	Set up service centers to assist taxpayers for e-filing of returns under the State/Union Territory GST Act	Commercial Tax
56	Tax enablers	GST	Establish a helpline providing basic services such as assisting users in preparing and filing returns under the State/Union Territory GST Act	Commercial Tax
57	Tax enablers	GST	Constitute an authority for advance ruling under the State Goods Service Tax and publish details of application procedure and checklist on the Department's website	Commercial Tax
58	Tax enablers	GST	Constitute an appellate authority for advance ruling under the State Goods Service Tax and publish details of application procedure and checklist on the Department's website	Commercial Tax
66	Inspection Enablers	Central Inspection Framework	Mandate surprise inspection or inspections based on complaints are conducted with specific permissions from the respective Head of Department	Department of Labour, Department of Factories and Boilers, State Pollution Control Board
74	Contract Enforcemen t	Commercial Dispute Resolution Enablers	Each Commercial Court, Commercial Division, Commercial Appellate Division shall maintain, publish and update every month, statistical data regarding the number of suits, applications and appeals filed and pendency of such cases, status of each case and number of cases disposed of.	Department of Law and Justice

Q7. What is your message to the industry on ease of doing business?

Ans: Investing in India and dealing with government departments has become easier. While there are areas where India needs to deliver better results, the intent is clear i.e. to tackle all bureaucratic challenges by the horns. India's strong performance in last two years, jump from 130 to 77, is a result of a determined campaign by 20+Government departments to streamline the country's bureaucratic environment towards a better goal. The data is collected by the World Bank through multiple communication with expert respondents using questionnaire, conference calls, written correspondence and visits.

This success has provided impetus within the service providers (Government in this case). The grievances are now dealt with faster. The focus towards reducing physical interface with government officials is on a fast track with multiple departments now working without any physical documentation and inspections. Government is making a constant effort towards relaxation of various laws and amendments, wherever required. India has improved leaps and bounds in terms of doing business ranking. But the story behind can be attributed to small steps undertaken to become better every day. Industry feedback was one of the key ingredients to the changes made by the government departments. India's Hon'ble Prime Minister has set an ambitious target of 'under 50' and the ministries / departments are up for the challenge.

DPIIT Tweets

To ease out and fast track the settlement of dispute at the first instance in commercial cases, pre-institution mediation has been introduced under the Commercial Courts Act in 2018 #EaseOfDoingBusiness

New Adani CMA Mundra Terminal at Mundra port has brought efficiencies to the port handling processes, which has added an additional annual capacity of 1,300,000 TEUs and enhanced #easeofdoingbusiness.

JNPT has introduced 15 New Rubber Tyre Gantry Cranes and these rubber cranes make it faster to handle the shipment at the port and ease congestion leading to a reduction in the vessel waiting time. #easeofdoingbusiness

Dedicated commercial courts have been set up at district level with value of commercial cases starting from INR 3 lakhs to ensure speedy resolution of commercial cases. #EaseofDoingBusiness

Introduction of fast track corporate insolvency resolution process limits the resolution process for mid-sized companies to 90 days, making insolvency resolution for smaller companies faster and efficient. #easeofdoingbusiness

Effective contribution for Provident Fund has been reduced from 0.65% to 0.5%, leading to a reduction in the cost burden for employers. @DIPPGOI #easeofdoingbusiness

4th container terminal started at JNPT with additional capacity of 2,400,000 TEUs reducing congestion at port, facilitating increased maritime trade volume. @DIPPGOI #EaseofDoingBusiness

Secured creditors are now given priority over other claims within insolvency proceedings, thereby strengthening security of credit. #easeofdoingbusiness

Corporate tax rate for companies with turnover less than Rs. 250 crores has been reduced to 25% from 30%, leading to a reduction in tax burden for smaller companies. #easeofdoingbusiness

Industry Perspective

Focus on Effective Implementation of Business Reforms

An Interview

Sumit Mazumder
Chairman & MD, TIL Limited

About the Author

Mr Sumit Mazumder, Past President, CII, Chairman, CII Task Force on Ease of Doing Business (2018-19) and Chairman & Managing Director, TIL Limited

Q1. India has registered a sharp improvement in the Doing Business Report of the World Bank. It is heartening to note that India has moved up the ranks from 142 in 2014 to touch the 77th position now. What are the major reasons for such a significant improvement in the country's performance?

Ans: Over the past few years, Government of India has introduced transformational business reforms with a view to enhancing the investment climate in the country. The result has been a sustained improvement in India's position on the World Bank's Doing Business rankings, leapfrogging by 65 notches in the last 4 years.

The sharp northward movement in India's ranking in the last 2 years could essentially be attributed to the significant reforms undertaken in the areas of Dealing with Construction Permits, Trading Across Borders, Paying Taxes, Resolving Insolvency, Getting Credit, and Protecting Minority Investors.

Growing focus on simplification, rationalization and digitization of regulatory processes and procedures is resulting in a significant reduction in documentation, time and compliance cost for businesses.

Q2.What according to you is the key message emerging for India from the latest Doing Business Ranking of the World Bank?

Ans: The key message, according to me, is that we are capable of introducing big - ticket reforms that can result in tectonic shifts in the rankings. This year our ranking leapfrogged by 129 in Dealing with Construction Permits, 66 in Trading Across Borders, and 19 spots in Starting A Business. We should, therefore, face no problem in further improving the rankings in laggard areas such as Registering Property (166), Enforcing Contracts (163), and Starting a Business (137). Further, we should be focusing on ensuring effective delivery of business reforms at the ground level for all types of businesses, which probably was among the main reasons why we did not record any improvement in the rankings of Paying Taxes and Resolving Insolvency this year, despite the implementation of breakthrough reforms in the form of GST, IBC, digitization of procedures, among others.

Growing focus on simplification, rationalization and digitization of regulatory processes and procedures is resulting in a significant reduction in documentation, time and compliance cost for businesses...delivery of reforms is expected to improve, going forward.

Q3. DPIIT has been ranking States on the implementation of business reforms for the past 3 years. Has this helped in increasing competition among the States?

Ans: With a view to promoting competition among States and Union Territories (UTs), the Department for Promotion of Industry and Internal Trade (DPIIT) has been assessing and ranking States annually under the Business Reform Action Plan (BRAP) since 2015. In the latest results, covering 372 areas of reforms and 36 States / UTs, Andhra Pradesh topped the list by scoring 98.3%, followed by Telangana (98.2%), Haryana (98.06%), Jharkhand (98.05%) and Gujarat (97.99%). On the other extreme are States / UTs like Meghalaya, Lakshadweep, Arunachal Pradesh, Sikkim and Manipur which could not implement even 1% of the recommended reforms.

The BRAP has been extremely helpful in generating the spirit of competitive federalism among the States. This is evident from the fact that implementation of business reforms, on an average, has been improving consistently from 32% in 2015 to 48.93% in 2016 and 59.21% currently. Half of the 36 States / UTs surveyed have scored nearly 94% in the latest BRAP survey. Further, the top 5 States are ranked very close, with the difference in scores being only 0.31% between Andhra Pradesh (ranked first) and Gujarat (ranked fifth). This clearly shows that States are competing intensely to stay ahead of each other in the BRAP rankings.

Q4. While DPIIT has been continuously augmenting the scope and horizon of BRAP recommendations year after year, what further measures may be considered for inclusion going forward?

Ans: BRAP lays down a number of reforms undertaken by the Government with regard to creating a conducive environment for doing business. The focus is on business licensing, inspections and regulatory practices and policies. The objective of the action plan is to effectively reduce the burden faced by entrepreneurs in dealing with Government procedures and processes. Besides regulatory compliances, the investment climate also depends on a multitude of factors, including the availability of raw materials, skills, infrastructural facilities and the law and order condition. With time, we hope that such aspects would also be factored in for assessing and ranking States.

Q5. There is a feeling that while states have fast-tracked reforms, their effectiveness at the ground level has been lacking. What should be done to tackle this issue?

Ans: Various CII surveys have been indicating large gaps in implementation of business reforms across States. We have been working closely with departments across various States for reducing such gaps. Several State Governments have been receptive to our feedback and are working on the policy inputs provided by us.

It is also significant to note that DPIIT, from the next survey onwards, may only invite feedback from the users of reforms rather than from all the State Governments. This will change the rules of the game in a big way and delivery of reforms is expected to improve, going forward. CII will work even more closely with State Governments to support them in this mission.

Q6. What according to you will be the top areas of ease of doing business reforms, which should be given special focus?

Ans: First, the online Single Window System (SWS) must be made truly effective at the pan-India level with the provision of online application, tracking, deemed approval and payment. The SWS should also encompass the integrated online joint inspections by various departments.

Second, procurement of land for industrial purposes should be made easier by introducing greater digitization and streamlining of the process across States. Stamp duty rates should also be rationalized in majority of the States.

Third, labour compliances should be made simpler and easier across States by leveraging digitization. Further, the scope of self / third party certifications should be augmented. There is also a need for increasing the threshold limit for applicability of Industrial Disputes Act, Factories Act and Contract Labour Act, as has already been done by a few States.

Fourth, the dispute resolution mechanism needs to be strengthened through initiatives such as filling up of vacancies in the courts and also making the court systems more digitized, business friendly and efficient. The Alternative Dispute Resolution (ADR) mechanism should also be developed at a pan India level.

Fifth, the process of obtaining construction permits must be streamlined, digitized and made effective across States. Measures such as the use of Auto DCR software for building plan approvals and widening the scope of self / third party certification would help.

Sixth, trade facilitation reforms should continue to receive special focus of the Government as the dwell time and cost are still high in comparison to the global standards. The Government must continue to introduce more trade reforms aimed at simplification, modernization and harmonization of trade processes for effectively bringing down the transaction costs of busineness.

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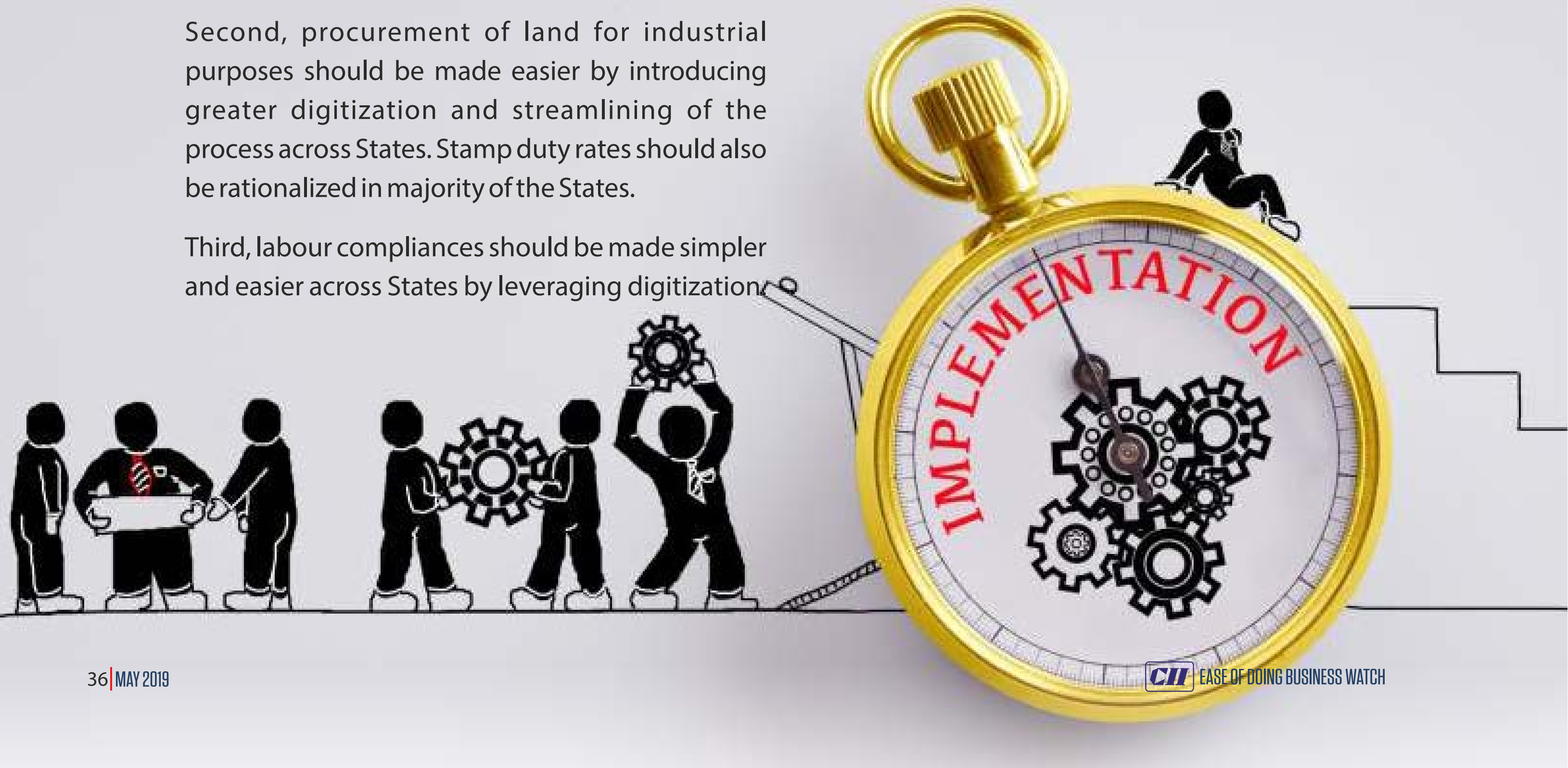

Resolving Insolvency in India

The journey so far and road ahead

Bahram Vakil
Founder & Senior Partner, AZB & Partners

About the Author

Bahram N Vakil is the founder and senior partner of AZB & Partners and has served as a member on various high-level government committees on financial reform, foreign direct investment and securities market reform.

India has ushered into a new era of doing business with a historic jump of 65 positions in the recently released Doing Business Report of the World Bank - from the 142nd position in 2015 to the 77th position in 2019. This huge improvement can be attributed to the rigorous legislative overhauling, coupled with regulatory and infrastructural reforms. One of the many indicators where India made massive strides was 'Resolving Insolvency', where it witnessed a record leap of 29 ranks in 4 years, helping the country move to the 108th rank currently. This remarkable improvement was an outcome of the implementation of the landmark Insolvency and Bankruptcy Code (IBC), 2016, which has greatly simplified both, restructuring as well as insolvency proceedings, and facilitated fast tracking of process for stakeholders, including creditors, investors and debtors. The Code provides a uniform and comprehensive restructuring and insolvency legislation.

The main emphasis of the Code is to shift the focus from a debtor-in-possession to a creditor-in-control regime during the restructuring process and also reduce the extent of involvement of courts. The creditor driven nature of the Code is particularly represented in the manner that IBC mandates the implementation of the resolution plan. This is approved by 66% of the members of the Committee of Creditors (CoC) for revival or liquidation of the company in consideration, within a period of 180 days (subject to a one-time extension by 90 days). The Code aims to boost the confidence of the lenders by putting in place a streamlined process for insolvency resolution / restructuring to ensure that the business functions of an insolvent company are not interrupted, while it is being restructured. It attempts to reduce time taken to resolve insolvency, maximize the value of assets and enhance the investors' sentiment.

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The efficacy of the Code has been bolstered by the Supreme Court, in a recent judgment, where it has upheld the constitutional validity of IBC, 2016 in its entirety, while providing clear guidelines about important issues, such as differences between financial and operational creditors, distribution of assets in liquidation, and eligibility of a resolution applicant, among others. The Court took notice of the fact that IBC has so far led to the recovery of Rs 1.2 lakh crore through out-of-court settlement and Rs 60,000 crore through the resolution process. It has also facilitated the exponential increase in the flow of the financial resources to the commercial sector from Rs 14,530.47 crore in FY17 to Rs 18,798.20 crore in the first six months of FY19.

While IBC, 2016, has proven to be a landmark legislation for early detection and resolution of financial sickness of debtors in a time-bound manner, the law is still in an evolving phase and needs strengthening in several areas.

The present article endeavours to make a few key recommendations in this regard, which will enhance the insolvency framework for corporate, cross-border, and personal insolvency in India.

CORPORATE INSOLVENCY - KEY ISSUES AND RECOMMEDATIONS

Absence of consolidation requirement of cases of Group Companies for Insolvency Proceedings

The Code does not provide a mechanism for holistic treatment of restructuring or insolvency of group companies. A piece-meal approach where different benches of NCLT hear cases pertaining to the insolvency of the parent and subsidiary company leads to several issues, such as exploitation of information asymmetry by debtors, duplication of work by the NCLT Bench, and potentially lower valuations. It is, therefore, suggested that one insolvency professional should be designated to coordinate the proceedings of different debtors within a group. The corporate structure of a company should be reviewed before admission of their cases for insolvency. Further, applications against one Group Company should be pooled into one NCLT to ensure cooperation and coordination amongst various proceedings (which we have already seen in the case of Videocon but if this can be embedded in process, it would be preferable).

Section 12A, 29A and guarantees

While all these issues have been considered by the

Tribunals and Courts, further clarity would help the process immensely. In regard to Section 12A, the timelines for bidding have to be finite and declared mandatory by the courts. Scoring a goal after the match is over can be very disruptive. The sanctity of the process must trump value maximization once the timeline has run to keep investors interested in the long run.

On the breadth of Section 29A and the vexed issue of guarantees qua the IBC once again further finesse is required either through amendments or case law.

Improve Information Utility Services

One of the most crucial factors to ensure seamless corporate insolvency resolution is the availability of a detailed database, which provides reliable and updated information about the debtors. While the National E-Governance Services Limited has been established as an information utility, it still is early days, and a few more information utilities and more encouragement to file information in these systems would be useful. Measures should be undertaken to strengthen the information utilities in order to address issues such as information asymmetry.

Ipso-Facto clauses being applied universally

Most of the commercial agreements and contracts provide for ipso-facto clauses, which entail termination of the contract, suspension of credit, and cessation of supply of goods and services, among others, after the debtors are in an insolvency process. Application of this clause may negatively impact the operation of the business due to restriction on credit availability, raw materials etc., especially in cases where a resolution plan is under consideration. A provision may be introduced for stay on the operation of ipso-facto clauses during the moratorium on the advice of the Committee of Creditors (CoC) for some kinds of contracts.

CROSS-BORDER INSOLVENCY

With increasing globalization, it is imperative to have a legal mechanism to deal with the plethora of international insolvency cases. Availability of adequate cross-border insolvency laws is essential to help ensure steady flow of Foreign Direct Investment (FDI) and Foreign Institutional Investment (FII). Developing adequate laws will help India to equip its judiciary to regulate cross border insolvency by empowering its courts to coordinate with foreign courts and accrue benefits from reciprocal coordination.

While the IBC, 2016 provides a robust mechanism for corporate insolvency, it is yet to strengthen the cross-border insolvency laws under Section 234 and Section 235 of the Code. With a view to introduce a harmonized approach for cross-border insolvency, it is imperative to expedite the implementation of the UN Commission on International Trade Law (UNCITRAL) Model Law on cross-border insolvency.

The UNCITRAL model has the following key features:

- ***Access*** - The Model Law envisages providing access to the foreign

representatives, insolvency professionals, and creditors in the domestic courts. This would promote coordination and cooperation among courts for resolving insolvency pertaining to cross-border cases.

- ***Recognition*** **-** One of the fundamental aspects of the Model Law is the recognition of international insolvency proceedings with the objective of preventing time-consuming legislations across various jurisdictions. Implementation of the UNCITRAL Model Law would allow for legal recognition of foreign main and non-main proceedings and provide adequate relief to ensure that such resolution processes are carried out smoothly.

- ***Relief*** **-** The Model Laws aim to ensure that the necessary relief is available for fair and orderly conduct of cross-border insolvency proceedings. The element of relief includes interim relief during the decision-making period for providing recognition, automatic stay on recognition of main proceedings, and relief at the discretion of the court for both main and non-main proceedings.

- ***Cooperation and Coordination*** **-** The UNCITRAL Model Law encourages cooperation and coordination between international courts, by allowing for commencement of domestic insolvency proceedings when a foreign proceeding has initiated and providing for concurrent insolvency proceedings. The objective behind promoting coordination is to arrive at the most economically viable solution.

PERSONAL INSOLVENCY

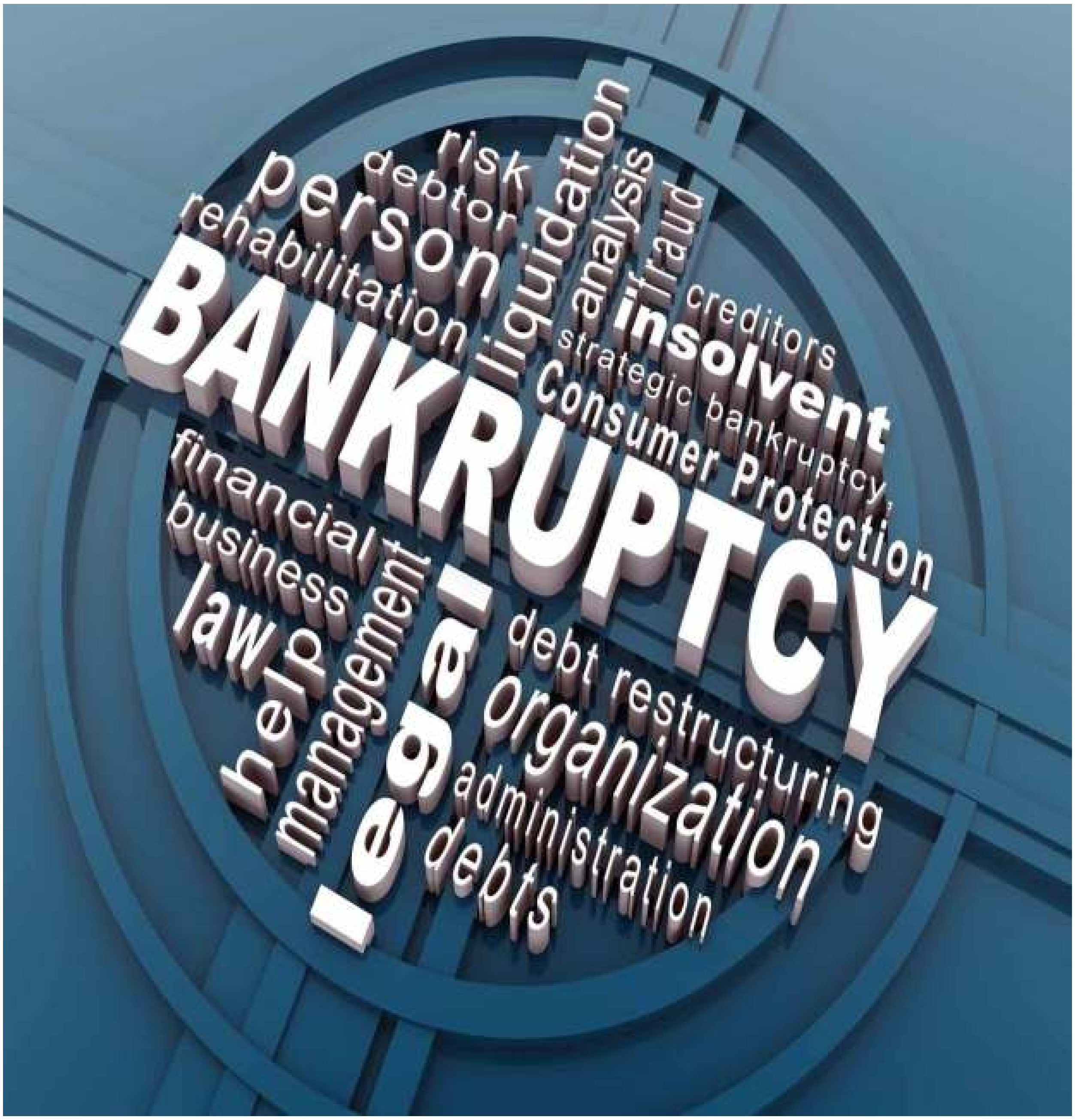
India needs to work proactively to streamline the individual insolvency cases by putting in place a uniform and structured legal framework that facilitates time-bound resolution. The Insolvency and Bankruptcy Board of India (IBBI) has prepared the draft Insolvency Resolution Process for Individuals and Firms Regulations, 2017 which, once notified, will replace the archaic Presidency Towns Insolvency Act, 1909 applicable to erstwhile presidency towns of Bombay, Calcutta, and Madras, and the Provincial Insolvency Act, 1920 applicable to the rest of India. The revamped individual insolvency framework envisages a 3-step process for insolvency resolution: (i) Fresh Start Process, (ii) Insolvency Resolution Process, and (iii) Bankruptcy Proceedings. It is necessary to finalize the draft and expedite the process of notifying these regulations. While doing it, points such as below may be considered:

- ***Augmenting institutional mechanism*** **-** Debt Recovery Tribunals (DRT) currently only accept cases from financial creditors, excluding debtors from approaching them. Also, there are only 38 DRT benches in the country, resulting in high pendency of cases. While the government is considering allowing debtors to also approach DRT, it should also work on institutionalizing more DRTs and engaging more experienced judges in the insolvency judiciary.

- ***Enhancing the threshold limit*** **-** The group provisions of individual insolvency prescribe a minimum threshold of a default amount of Rs 1,000 to file an application with the tribunal. This is very low, which would lead to unnecessary piling of cases in already burdened tribunals. Charges associated with court proceedings and procedures would then be more than the debt involved, which needs to be considered in deciding the minimum debt. The minimum debt required to apply for insolvency petitions needs to be increased to around Rs.100,000/-.

- ***Capacity building for insolvency professional*** **-** There is a limited availability of eligible insolvency practitioners to deal with individual insolvency cases. The number of Insolvency Professionals (IPs) currently registered with IBBI is only about 3200, which is not adequate. This deficiency will be felt even more once the provisions for individual / personal insolvency are notified. Therefore, we need to lay emphasis on the expansion of the number of Insolvency Practitioners, by engaging more Insolvency Professional Agencies (IPAs) and expanding the horizon of professional eligibility to become IPs.

To sum up, IBC, 2016, is a major step towards innovative and time-bound insolvency resolution. With continuing attempts for resolution of issues identified in its evolutionary phase, the Code is all set to provide significant relief to stakeholders involved in cases pertaining to corporate, cross-border and personal insolvency, besides facilitating improvement in India's doing business ranking.



Plastic Waste Management : Need for a Joint Effort

R Mukundan
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About the Author

R Mukundan is the Managing Director and CEO of Tata Chemicals. He serves on executive committees of various industry forums, including Confederation of Indian Industry

The age of plastics began when the laboratory hypotheticals went wrong - 'discovered by an accident' would be the appropriate phrase for the discovery of plastics. Over the years, plastics have become an integral part of modern life. Plastics provide numerous unparalleled advantages over other packaging materials, which make it almost ubiquitous. Worldwide, the use of plastics has increased tremendously. With the opening up of the Indian economy in 1991, urban India has embraced consumerism with a demand for branded and reliable products. The Indian FMCG sector, which is the 4th largest sector in the Indian economy, has been significantly contributing to this consumption pattern, by making products available to consumers at a low cost and high reliability. This includes ensuring a better shelf life, especially for packaged food and nutritional products, where plastics have been a preferred choice of packaging material.

According to a publication of the Ministry of Environment Forest & Climate Change (MoEFCC), Government of India, released on the occasion of the World Environment Day 2018, production of plastics has increased from 15 million tonnes in the 1960s to 311 million tonnes in 2014 and it is expected to triple by 2050. The use of plastics has increased 20-folds in the past half a century and is expected to double in just the next 20 years.

The last two decades have seen a spurt in global collaborations for shaping new agendas on sustainable growth, with an explicit emphasis on plastic waste management. In October 2014, the union government placed a specific focus on sanitation and waste management through Swachh Bharat Mission (SBM). In line with the objectives of this mission, the MoEFCC came up with the Plastic Waste Management Rules (PWMR), 2016. The legislation acted as a turning point with respect to plastic waste management, as the concept of Extended Producer Responsibility (EPR) was integrated into regulatory compliance. The regulation has identified various key stakeholders, including the Indian Industry, with an objective to ensure sound management of plastic wastes. 'Plastic Pollution', a term perhaps unfamiliar just a few years ago, has now gained ground and on the occasion of the World Environment Day 2018, India was chosen as the global host, with the theme 'Beat Plastic Pollution', that largely focussed on galvanizing greater action against single-use plastic pollution.

Bringing down the plastic pollution will indisputably require everyone to act proactively. The Indian Industry welcomes all the efforts made by the government in introducing Plastic Waste Management Rules, 2016, and is fully committed to contributing its best to its effective implementation. However, there are certain key operational challenges that the industry is facing, while complying with the PWMR regulations, which calls for an effective redressal of the issues.

Bringing down the plastic pollution will indisputably require everyone to act proactively. The Indian Industry welcomes all the efforts made by the government in introducing Plastic Waste Management Rules, 2016, and is fully committed towards contributing its best to its effective implementation. However, there are certain key operational challenges that the industry is facing, while complying with the PWMR regulations, which calls for an effective redressal of the issues.

KEY CHALLENGES:

- **No substantial focus on waste segregation at source**

  The segregation at source is the key for proper waste management. The results of the Swachh Survekshan 2018 have very evidently demonstrated this. Most of the cities in the country ensuring segregation of waste at source are in the list of awardees. Thus, it is well understood that segregation at source is at the heart of the waste management solution. It can certainly enhance waste collection efficiency and also lead to better efficiency in processing of waste and resource recovery. Unfortunately, in most parts of the country, there has been no substantial focus on waste segregation at source. Coordinated efforts by Central and state authorities, supported by producers (Indian Industry), need to be made for increasing awareness in civil society on environmental benefits associated with waste segregation at source. Despite the challenges posed in managing waste, there are several success stories that are being spearheaded by a highly conscious Indian Industry With a view to contribute towards a cleaner India, the industry has propelled many initiatives that aim at boosting waste segregation at source by active involvement of common people.

- **Lack of clarity on the role of Industry under EPR**

  As per Rule No 6 under PWMR 2016, every local body will be responsible for the development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste, either on its own or by engaging agencies or producers. The rules have assigned primary responsibility to Urban Local Bodies (ULBs) for collection, segregation and sorting of plastic waste. In addition, ULBs are also required to provide access to sorting equipment, training and technology for waste pickers to increase their efficiency. Although the Indian Industry is willing to take up the concept of Extended Producers Responsibility (EPR) for better management of plastic waste, its role in the complete waste value chain needs to be clarified, specifically while engaging with state authorities. CII has requested guidelines from MoEFCC on implementation of PWMR that would provide correct interpretation of various clauses under the legislation.

- **Lack of National Accounting of waste recovery and recycling**

  In the absence of National Accounting of waste recovery and recycling, it would be difficult to estimate contribution of each producer towards collection of post-consumer plastic. Thus, a national accounting system should be developed by the Ministry.

- **Recent directions from State authorities, placing additional regulatory compliance requirements on the Industry:**

  While industry is still struggling with the various challenges associated with PWMR 2016, several state authorities have started notifying directions to the industry. This has posed additional regulatory compliance requirements on the Industry. On 23 March 2018, Government of Maharashtra notified Maharashtra Plastic and Thermocol Products (Manufacture, usage, sale, transport, handling and storage) and later amended through notifications dated 11 April 2018 and 30 June 2018. The notification has put severe regulatory challenges to all sectors of industry using plastics in their packaging/products.

  Buy-back schemes, mandated for PET user Industry, were given only 3 months to implement. We believe that such schemes require a lot of time and effort for creating the right ecosystem for them to work in a transparent and efficient manner. Further, Clause (1) of Rules (3) of the amendment notification dated 30 June 2018, doesn't take cognizance of Plastic Waste Management Amendments Rules 2018, notified by MoEFCC in March 2018. In addition, it was noticed that while drafting the aforesaid regulations, there was no consultative process with the industry. . Further, the Government of Punjab (GoP), while putting in place a scheme of creating a registered society with industry representatives at its quorum of governance, as per PWM Rules 2016, did not consult the industry.

In addition, other state governments, like Gujarat, J&K and Tamil Nadu, have also started issuing notifications to industry for non-compliance with Plastic Waste Management Rules. This is leading to a situation of multiple compliance requirements being mandated by various state authorities.

- **Poor involvement of civil society organizations**

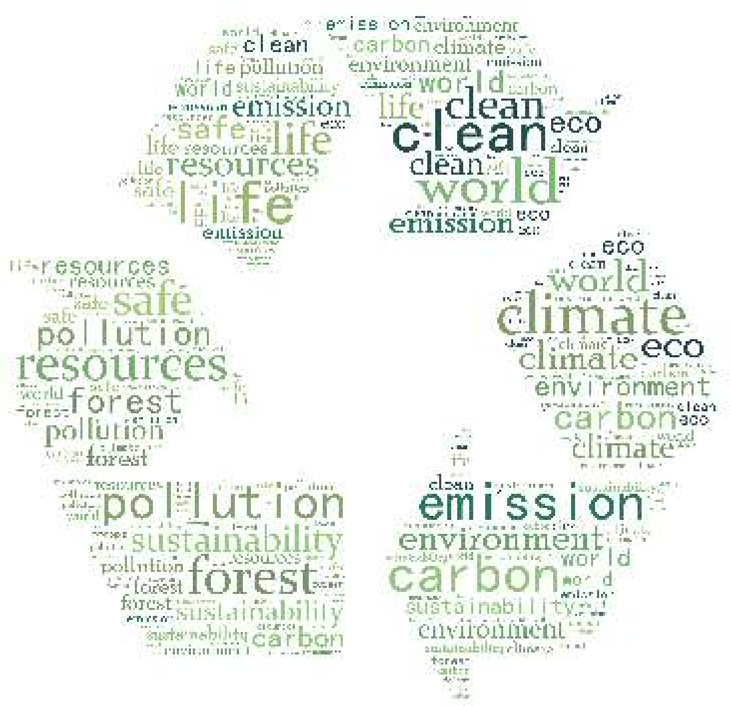
It is worthwhile to understand that the participation of civil society in such a process is also vital to ensure equity, transparency and protect the interests of people involved in the collection, segregation and treatment of these wastes. However, in the present scenario, such participation is completely missing.

SOLUTIONS PROPOSED BY INDIAN INDUSTRY

The industry would like to propose following suggestions for the consideration by MoEFCC.

- **Develop a National Framework on -EPR**

CII had organized various consultative sessions with its membership and it has been agreed that a National Framework on EPR, with a national accounting system, can act as a possible solution to all regulatory challenges being faced by the Indian Industry. Such a framework needs to be developed in consultation with all stakeholders, including Union Government, state authorities, industry, academia and civil society. In line with these suggestions, in the year 2018, CII decided to partner with the Ministry to organize multi-



stakeholders' 2-days regional workshops on Waste Management Rules 2016 for Eastern and Southern Region. Based on feedback/ inputs received during the workshops, the Ministry is in the process of conceptualizing much awaited National Framework on EPR.

- **Guidelines on EPR implementation under PWMR 2016**

A clear and common understanding of PWM Rules 2016, along with associated roles and responsibilities of all stakeholders, is a basic requirement for achieving effective compliance. Therefore, guidelines on EPR under Plastic Waste Management Rules 2016, defining clear roles and responsibilities of all stakeholders, should be put in public domain, with consideration of the following suggestions

a) Multi Layered Packaging (MLP) is a globally accepted packaging material. Therefore, as long as it can be collected and segregated for further use by specified industry or purposes, its phasing out need not be one of the objectives of the regulation. There should be clarity through aforesaid guidelines regarding the recyclable and re-processable nature of multi-layer laminates.

b) Provision of the PWM Rules, 2016, should be sector, geography, category and brand neutral. This, in turn, would encourage industry to take up its responsibility on a larger scale. National level credit system should be followed for discharge of the EPR obligation.

- **Avoid duplication of guidelines/rules**

Considering that the Ministry is in the process of developing National Framework on EPR based on inputs/suggestions received from a wider range of stakeholders, all the show cause notices issued by the various state authorities to 'Producers' on the part of their compliance monitoring should be withdrawn or declared as null and void, as they unnecessarily pose an extra burden on Industry.

- **ULBs/ SPCBs as nodal agency for scrutinization of EPR Models**

The nodal agency for scrutinization of EPR models should be respective Urban Local Body/ State Pollution Control Board only. There should not be involvement of CPCB in this process.

- **Moving beyond mere collection of plastic waste**

The PWM Rules 2016 provide/restrict the role of EPR to mere collection of plastic /MLP. As per our understanding, post collection, it is the responsibility of the local municipal body to process the collected plastic waste in the manner as specified under the regulation. Government of India may request the concerned state municipal bodies/ authorities/nodal agencies to simultaneously come out with a detailed action plan for disposal of the plastic waste.

- **Define an objective criterion under PWM, 2016**

  A clarification on the types of plastic wastes that attract the provisions of the PWM Rules 2016 may also be considered.

- **Explore Public Private Partnership**

  Public Private Partnership (PPP) can be explored for creating well synergized initiatives for creating public awareness and ensuring participation of civil society. Concerned authorities need to develop a certain plan of action to drive proper segregation of waste at its source of generation, with adequate consultation with all stakeholders.

To conclude, the waste management requires concerted efforts from all relevant stakeholders in a synchronized manner. There is a need to streamline the understanding of regulatory framework amongst all relevant authorities, with a clear demarcation of roles and responsibilities of all stakeholders.

GST – The journey has just begun

Harishankar Subramanian
Partner, EY

About the Author

Chairman, CII Core Group on GST and Partner – Indirect Tax, EY India

The onset of 2019 marked 18 months from the implementation of Good and Services Tax (GST) - one of the biggest and transformative tax reforms that India has witnessed since independence. Built upon the concept of 'One Nation, One Tax, One Market', GST is a colossal reform, which aims to simplify the Indian taxation ecosystem and make it much more business friendly. As we are adapting to GST, the improvement is expected to get captured in the next Doing Business Report of the World Bank.

Currently, India ranks at 121 position in 'Paying Taxes' indicator, showing scope for much improvement in number of tax payments, total tax rate and the time taken to comply with taxes. Effective implementation of GST is expected to push India several notches up in the next global ranking. With a view to catapult India's position within the top 50 nations, as desired by the Hon'ble Prime Minister, the adoption of GST is a solid foundation.

Integrating GST with the Indian Economy

When a country, the size of India, with its multi-party democracy and federal structure where both Centre and States have fiscal autonomy, forges a political consensus to amend the Constitution and introduces GST, less than ideal design with some inherent complexities were given. The objective was to first implement GST and then address the lacunas. While the purists may criticise this approach, this, in my view, was the only pragmatic way we could have implemented GST in this country.

One of the most successful aspects of GST has been the creation of the constitutional body in form of the 'GST Council', which is mandated with onerous task of formulating the GST policy in a spirit of cooperative federalism. There were sceptics of this arrangement but the way this august body has functioned forging consensus on every decision in last 33 meetings has been most laudable; and the credit goes to the Union Finance Minister and every State representative for this sterling outcome.

I have always believed this law and structure will evolve substantially in the first 2-3 years, responding to stakeholders' feedback. We have also seen 400+ notifications, circulars, orders covering amendments in law, rates, rules, procedures etc. What we may see in a year or two is a median GST rate of 14-15% where majority of the goods and services will be covered, with possibly a higher de-merit rate with limited items and a lower rate.

This august body has taken approximately 900 decisions, instrumental for more than 400 notifications, circulars, and orders leading to law, rate and procedural changes. These decisions have largely been proactive, and many have addressed the transitional pain and stakeholder issues across sectors.

While GST was something that the entire industry was rooting far, what was equally important was how the industry will navigate the transitional period in this transformative reform without any major disruption to their businesses. In other words, the concern was being felt about how the new GST regime would pass the test of **'ease of doing business'** in the medium to long term?

Amongst the many transformative changes, what many failed to recognise was the paradigm shift in GST compliance; we moved from basic summary data return filings to transaction level (invoice level information) filings. The magnitude of this tectonic shift was underestimated and sufficient time was not given to GST Network and industry for testing, which led to the initial pain and chaos of monthly GST compliance. This was even more onerous for service sectors, like Financial Services, Telecom etc. which were used to bi-annual service tax compliance.

What the GST compliance mechanism attempted was complete digitisation of value and supply chain with dynamic vendor-purchaser invoice matching, but this required planning and solid testing for it to work smoothly. Realising the seriousness of this teething issue in the early months, especially for the MSMEs, the GST Council responded by course correcting the proposed return filing sequence of GSTR1 (outward supplies), GSTR2 (inward supplies) and GSTR3 (monthly) and introduced GSTR3B summary filing with only GSR1 (outward supplies) filing, which continues till date.

This action definitely eased the pain with these two returns having stabilised, but the fallout was the absence of dynamic invoice matching, which was a mechanism for monitoring the credits and value chain and checking evasion. Yes, the introduction of E- way bill did create a form of trail for movement of goods but integration with GSTR1 is a work in progress.

32nd GST Council Meet & the Way Ahead

The 32nd GST Council decided to ease the pain of small tax payers by increasing the threshold limit for registration from Rs 20 lacs to Rs 40 lacs and for special category States from Rs 10 lacs to Rs 20 lacs with options to States to opt up or down. The Council has agreed to increase the annual turnover limit for composition scheme to Rs 1.5 crores from April 1, 2019, coupled with compliance simplification wherein these categories of taxpayers will file Annual returns with payments continuing quarterly. Further a composition scheme for service providers has been decided effective April 1, 2019 with a tax rate of 6% (3% CGST + 3% SGST) for taxpayers whose annual turnover in the preceding financial year is up to Rs 50 lacs, with provisions for annual return filing and quarterly tax payment. These decisions will ease the burden of the majority of small taxpayers and may not adversely impact the revenue collections.

The new simplified return forms is also expected to be introduced only after proper testing to avoid any transition pains, the idea has been to ensure that the industry at large and the MSME in particular have an easy time complying in the GST regime, besides getting enough time to prepare for any new return format transition. The postponement of Annual returns to June 2019 was another welcome move, this being the first year of GST audit and annual returns, it is critical that the industry at large is given time to comply appropriately. Besides the formats and information required for return filing is still onerous and requires some more clarity and simplification, wherever possible.

The regime's multiple rate structure was a result of the rate fitment slab being governed by legacy effective (Excise + VAT) on goods in the erstwhile indirect tax regime. This meant a whole host of goods went into the slab of 28% peak rate, which was not desirable as this rate structure should have had a minimum list of de-merit goods with a cess. The GST Council soon realised this fact and we witnessed continuous rationalisation of this 28% slab, besides some downward movements in slabs of 18% and 12%.

Originally 224 tariff items of goods were in 28% category, with the 22 December 2018 31st GST Council meeting reducing that to around 30 tariff line items. We will see further rationalisation but only on the back of some improved revenue collections, a fact that the Finance Minister alluded to during the recently concluded Council meeting.

GST revenue collections have been mostly around the mid Rs 90,000 crore mark, except in April 2018 and November 2018, where it breached the Rs 100,000 crore figure. Collections are good but can improve, periodic rate rationalisation have not helped in the interim, though the hope is that consumption over a time period improves for better numbers. E- way bills, integration with GSTR1, and last but not the least an introduction of simplified but efficient invoice / credit matching systems will help drive the revenue numbers over time. Recent conversations around a backstop solution of GST compensation to states beyond

Highlights of the 32nd GST Council Meet

- Exemption limit for paying GST for goods increased from Rs 20 lakhs to Rs 40 lakhs.
- For North-Eastern and hill States, the exemption limit has been raised from Rs 10 lakhs to Rs 20 lakhs.
- A new composition scheme has been introduced for services sector and for mixed transactions of goods and services with turnover limit of Rs 50 lakhs at 6% GST.
- The limit of composition schemes for goods has been raised to Rs 1.5 crore at 1% GST rate.
- Tax to be paid Quarterly and GST Returns to be filed annually.

initial 5 years further underlines the importance of robust and consistent revenue collections.

Rate rationalisation equally needs to happen with increase in base and the GST Council in its wisdom will soon address the issue of expanding GST base and bring in petroleum products, real property and electricity duty within the GST chain.

GST law drafting and design in the backdrop of India's federal structure with a legacy mindset of VAT and Central laws is a challenging and arduous task. While it's easy for many to criticise, the pulls and pressures meant a near than ideal law which will improve as we go along.

I have always believed this law and structure will evolve substantially in the first 2-3 years, responding to stakeholders' feedback. We have also seen 400+ notifications, circulars, orders covering amendments in law, rates, rules, procedures etc. What we may see in a year or two is a median GST rate of 14-15% where majority of the goods and services will be covered, with possibly a higher demerit rate with limited items and a lower rate.

There is a lot that needs attention, and this will be a continuous journey where industry will engage with the government and bring forth issues and suggest solutions to try and improve the regime.

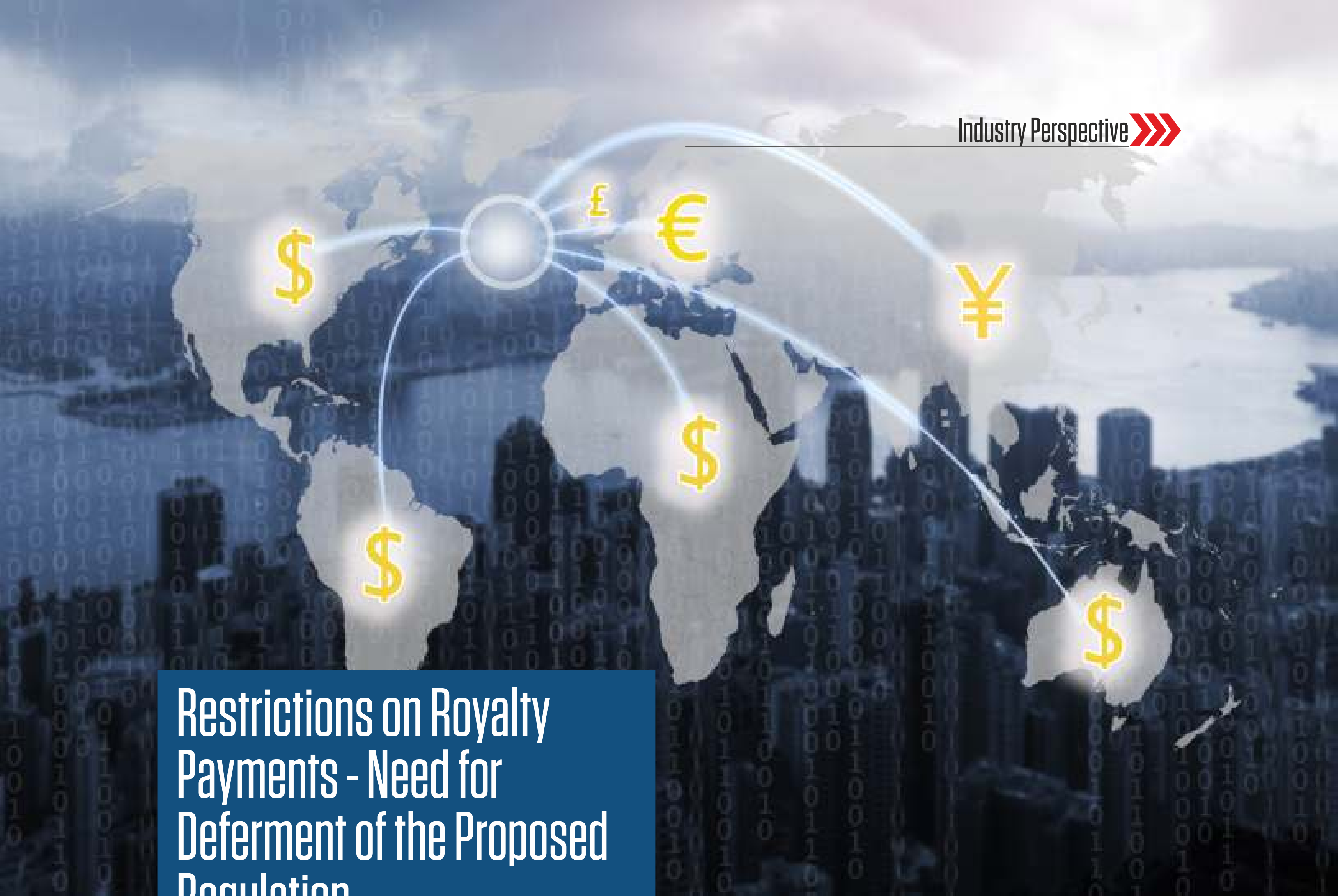
While the description of major changes will require much larger space, some of the key highlights include deferral of reverse charge mechanism on supplies received from unregistered dealers till September 30, 2019; exemption from discharging of GST on advances received for future supply of goods; exemption from registration for persons engaged in making inter-state supply of services, provided the aggregate turnover does not exceed Rs 20 lacs; and exemption for services by an establishment in India to its another establishment located outside India.

Areas which require immediate attention are clarity on industry sales promotions and their treatment to avoid litigation; the spectre of intermediary has again risen in GST from legacy service tax, which needs immediate attention to avoid impacting our large BPO/KPO services sector, among others, and sectors facing challenges of inverted duty structure, exploring credits for input services and capital goods etc.

The Authority of Advance Rulings across states have started pronouncing judgements on various issues under GST, at times divergent to one another. The need for a National Tribunal is, therefore, well understood by GST Council to try and bring a finality to these conflicting judgements and proposals.

The provisions of anti-profiteering in GST law and its intent was well understood but without any clear guidelines, there was always a concern that this can be become litigious. While the government had a view that it did not want to be prescriptive and provide guidelines, the challenge is industry in their own wisdom may have followed methods with good intentions to comply but now some of these could be challenged by authorities, leading to adverse orders and litigations.

GST is here to stay and it's in our interest as the industry to engage patiently to improve this regime. We have achieved a lot in these last 18 months but there is still a long way to go and our engagement should continue.



Restrictions on Royalty Payments - Need for Deferment of the Proposed Regulation

CII Analysis

Royalty payments are made by many Indian subsidiaries of multi-national corporations on accounts of technology transfer, used by the Indian subsidiary of brand names and other intellectual property (IP) belonging to the parent. For many decades now, the Ministry of Commerce and Industry, Government of India has been approving not just in cases of foreign direct investment but also cases of technical collaboration and payment of royalty to collaborators. In the 1990s, the Government permitted royalty payments both recurring and lump sum on an annual basis to foreign collaborators by Indian companies. The limits then were 5% on domestic sales and 8% on exports (net of taxes). There was also, a lump sum payment which could be made under royalty for technology transfer. The terms for automatic approval of technical collaboration agreements were liberalised over the years and with effect from December, 2009 with the foreign exchange condition consistently improving, the Ministry left it to the discretion of business to determine the royalty payments.

Current Position

The royalties paid by Indian subsidiaries to their parent companies have been attracting some attention in the recent times. One of the significant changes that has taken place in the last 5 to 6 years is the issue of royalty payments being regulated by multiple Government agencies under the Related Party Transactions with the objective of enhancing corporate governance. It is important to note that the Ministry of Commerce and Industry has not, till date, imposed any fresh limits on royalty remittance after 2009. The current position can be explained as under:

Ministry/ Authority	Regulation	Regulatory Requirements for Royalty Payments
Department for Promotion of Industry and Internal Trade (DPIIT)	Industries (Development & Regulation) Act, 1951 and Industrial Policy (as amended)	No limit for recurring royalty or lump sum royalty.
Ministry of Corporate Affairs (MCA)	Section 188 of the Companies Act, 2013 deals with Related Party Transactions (RPT). There is no specific provision on royalty/brand usage, but if the transactions are not in the ordinary course of business and not at arm's length, the same is covered under availing or rendering of services between RPTs.	• Under the Rules, RPT during a financial year in access of 10% of the turnover or Rs 50 crores whichever is lower requires shareholder approval of disinterested shareholder by way of an ordinary resolution. • Existing agreements are not impacted. Only fresh agreements need to comply.
Securities and Exchange Board of India (SEBI)	SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. There is a specific provision on royalty/brand usage effective 1st April, 2019.	Effective from April 1, 2019 royalty/brand usage payments in excess of 2% of last audited consolidated annual turnover, requires approval of the disinterested shareholders by ordinary resolution.

Inconsistencies between above Regulations leading to difficulty in compliance/ Ease of doing business

It will be noticed from the above that both, in terms of limits, as well as, compliance requirements, there is variance between the three authorities. While the Ministry of Commerce and Industry which is the nodal agency for FDI, Technology Transfer Agreements, and Promotion of Industrial Development etc. does not impose any limit, the other two authorities of the Government have imposed limits that vary. SEBI, on the other hand, has carved out a 2% of the turnover limit on royalty payments within the broader 10% limit on RPTs.

Under Companies Act, 2013, only new agreements that provide for royalty payments are covered whereas under SEBI Guidelines, even existing agreements are covered so long as remittance is made on or after April 1, 2019.

Further, the other implications of the inconsistency are listed below for consideration;

a) Restriction on royalty payment create a disincentive for Indian subsidiaries/ associate companies of foreign companies to list in India

SEBI Regulations apply only to listed companies. Imposing a downward revised limit of 2% will act as a disincentive for Indian subsidiaries/ associate companies/ joint ventures of foreign companies to list in India and access Indian capital market. The distinction between listed and unlisted companies will adversely impact the growth of stock markets in India and discourage companies to list in India.

b) Restriction on royalty payment to limit economic reward for local public shareholders

In absence of adequate remuneration for R&D, technology, brand etc. in the form of royalty, the foreign parent company will be disincentivised to provide access to the latest technology and other IPR to its existing listed subsidiary. The same will hamper the long-term value creation potential of the listed company and consequently, the rewards shared by local public shareholders.

c) Restrictions on royalty payment would adversely impact the "Make in India" program of the Government

It would be inappropriate to impose restrictions on payment of royalty at a time when the Government has initiated a series of measures to attract foreign investment as part of the "Make in India" program. Given that historically, royalty rates of 5% (net of tax) on local sales and 8% (net of tax) on exports were prevalent, imposing a 2% limit in current times when India is looking at becoming a preferred destination for FDI may not be the right step to take.

d) Restrictions adversely impact "Ease of Doing Business" objective of the Government

It will be noticed that different departments in the Government have set different limits and requirements on the same issue which brings about complexities in compliance and goes against the Government's stated policy of ease of doing business and minimum Government and maximum governance.

CII Recommendations

a) Undertaking Stakeholder Consultation: Given the above inconsistencies and given that the Ministry of Commerce and Industry is in the process of finalising a policy on royalty remittance, it is suggested that the SEBI amendment effective 1st April, 2019 setting a limit of 2% for royalty beyond which approval of disinterested shareholders would be necessary, may be deferred until such time the Government comes out with a policy after sufficient stakeholder consultation.

b) Promoting Technology Transfer: Given that the Government had imposed limits of 5% for domestic sale and 8% for exports (net of taxes) until December, 2009 for automatic approval, a good ten years ago, the Government should consider imposing the same limit of 5% for domestic sales (net of taxes), if not higher, ten years later in 2019. This is also suggested keeping in mind the present FDI reserves and the potential for the same. Also, technical and financial collaborator would expect some remittance in the form of royalty having shared their technical knowhow and brand that stands for certain assurance to consumers that the product is a quality product made with imported technology.

c) Ensuring Policy Consistency: Both MCA and SEBI are concerned with RPTs and have rightfully laid down the limits for RPTs. However, it may also be noted that all royalty payments may not attract RPT provisions as technology may also be coming from non-related parties. The inconsistency highlighted above, needs to be removed and a single limit on RPTs needs to be fixed. Given the diverse nature of RPTs, depending upon the business in which a company is engaged, a single limit of 10% of consolidated annual turnover is a reasonable limit for the same. Insofar as MCA and SEBI are concerned, imposing a limit on royalty/brand usage payments can be avoided given that their area of operation is different and does not directly deal with technology transfer and consequent royalty payments. It may be noted that under the Government of India (Allocation of Business) Rules, 1961 as amended, Industrial Policy, Industries and Industrial and Technical Development is within the scope of the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry (erstwhile DIPP).

The objective with which both MCA and SEBI have introduced the above provisions are well understood. It is suggested that until such time, the Government finalises its approach to royalty payments, government may allow industry to make royalty payments as per the existing contractual commitments and if a limit is to be stipulated, the erstwhile limit of the Government for automatic approval may be followed i.e. up to 5% of domestic sales (net of taxes) and 8% of exports (net of taxes). Even the Transfer Pricing Guidelines treat 5% of turnover as a reasonable threshold for making royalty payments on account of technical knowhow and brand usage.

Once the Government has finalised its policy, only payments beyond the limits imposed by the Government may be subject to consent of the Government and shareholders with the aforesaid majority.

Given that the amendment to SEBI listing regulations will be effective April 1, 2019, CII suggests that the implementation of the Amendment may be deferred until the policy is finalised by the Government.

State Space

Madhya Pradesh - Sharp Improvement in Business Environment

The state of Madhya Pradesh (MP) is among the fastest growing states in the country. In addition to be a leader in the agriculture, the state has also experienced phenomenal growth in the industrial sphere. Leveraging on its robust infrastructure, abundant technical & skilled manpower and a strong resource base, MP has emerged as one of the best investment destinations in the country.

The MP government, along with the Department for Promotion of Industry and Internal Trade (DPIIT), has adopted a multi-pronged approach to further strengthen and boost the state's economy by continuously improving the business environment in the state.

Industrial Arenas

- 229 Notified Industrial Areas
- 19 Growth Centres
- 4 Notified Special Economic Zones
- 12 Product Specific Industrial Parks

Support Infra -structure

- 1,60,000 KMs of Road Network
- 40,000 acres of developed areas
- 24x7 Industrial Power

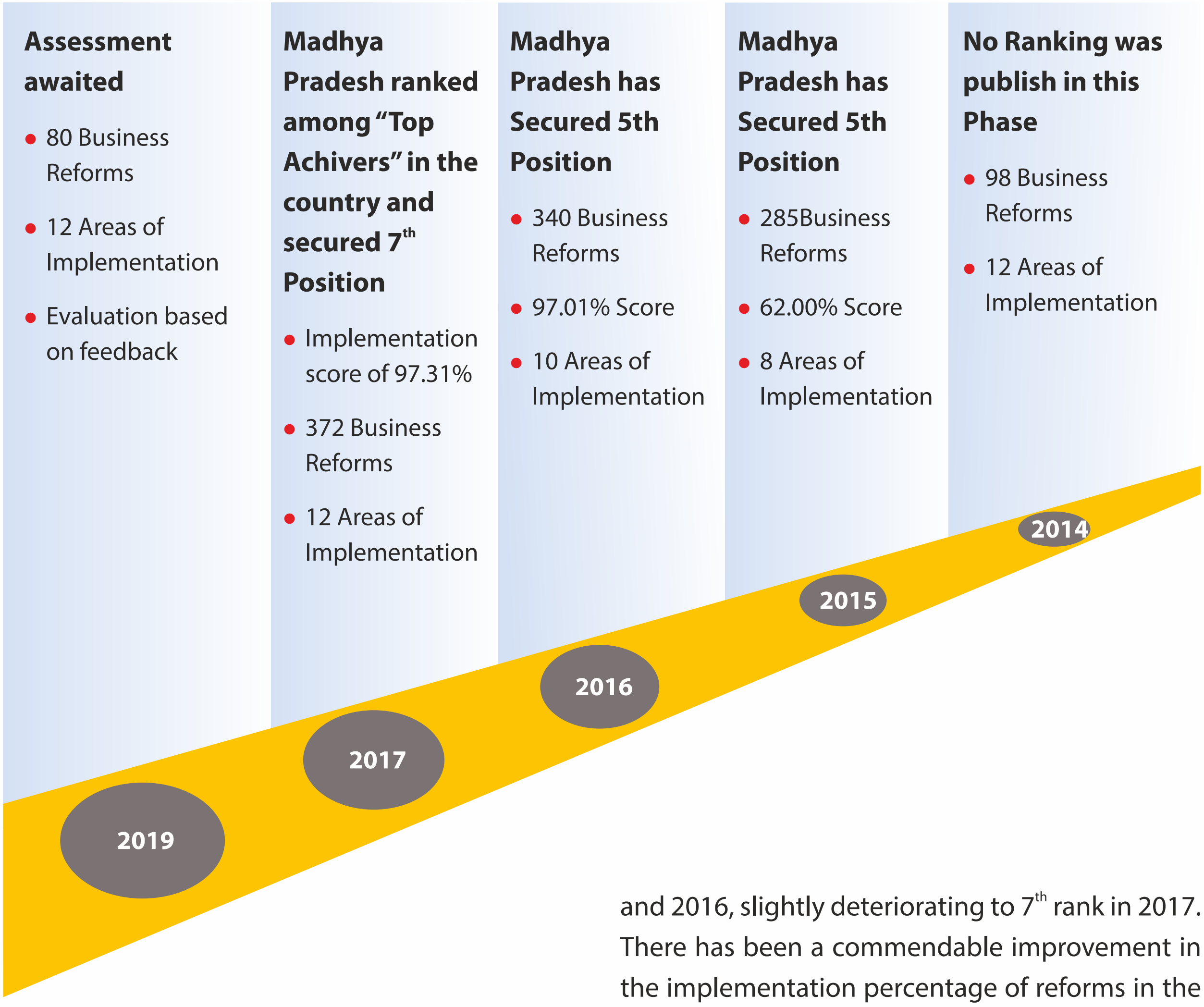
Favourable Policies

- Fiscal Incentives
- VAT/CST Refunds
- Internet Subsidy
- Power Rebate
- Concessional P&M Investments

Promotion of Ease of Doing Business

The MP government has taken several steps towards enabling an effective investment climate, keeping in line with the Prime Minister's vision of developing India as one of the most business-friendly nations for doing business. Among other key measures, it has strengthened its Single Window System to offer a wide portfolio of services under one roof, simplification of various processes, improvement of labour laws and the introduction of a self-declaration facility across various services.

In view of improvement in factors such as government policy re-engineering, policy analysis, prioritizing areas for improvement & conducting benchmarks, and identification & elimination of bottlenecks in service delivery, MP has witnessed significant improvement in the Business Reform Action Plan (BRAP) scores of DPIIT, Government of India.



Source: Ease of Doing Business Report- Madhya Pradesh

MP's EoDB performance in recent years

MP stood at the 5th rank in BRAP in the year 2015 and 2016, slightly deteriorating to 7th rank in 2017. There has been a commendable improvement in the implementation percentage of reforms in the state over the years, which has risen from 62% in 2015 to 97% in 2016 and to 99.5% in 2017. In 2017, there was a new procedure of taking feedback from users, and the feedback marks were also added in the final score, which made the final cumulative score of the state as 97.30%.

Table1 – Trend in Madhya Pradesh's EoDB Performance

Sr. No	Parameters	2015	2016	2017
1	**DPIIT Ranking for Ease of Doing Business**	5th Position	5th Position	7th Position
2	**Type of Evaluation**	Evaluation on submission + Visit to states	Evaluation on submission	Evaluation on submission & Feedback on 78 points
3	**Implementation Score**	62%	97.01%	99.46%
4	**Feedback Score**	NA	NA	79.61%
5	**Final Score**	62%	97.01%	97.30%
6	**Category for MP**	Aspiring Leader (State that scored 50%-75%)	Leader (State that scored 90%)	Top Achiever (State that scored 95%+))

In 2016, MP had successfully implemented all business reforms related to the key indicators of Environmental Registration, Labour Registration, Obtaining Utility Permissions, Inspections Reforms, Access to Information & Transparency Enablers and Single Window System. The state has achieved the implementation score of 100% in the aforementioned areas.

Business Reforms Action Plan (BRAP)

DPIIT, as part of its BRAP exercise, has undertaken a series of measures to simplify and rationalize the regulatory processes (registration and inspection processes) and introduce information technology as an enabler to make the governance more efficient and effective.

Aligning with the prime goal of BRAP reforms to leverage on technology, MP has broadly focused on the following 3 elements to improve the business environment:

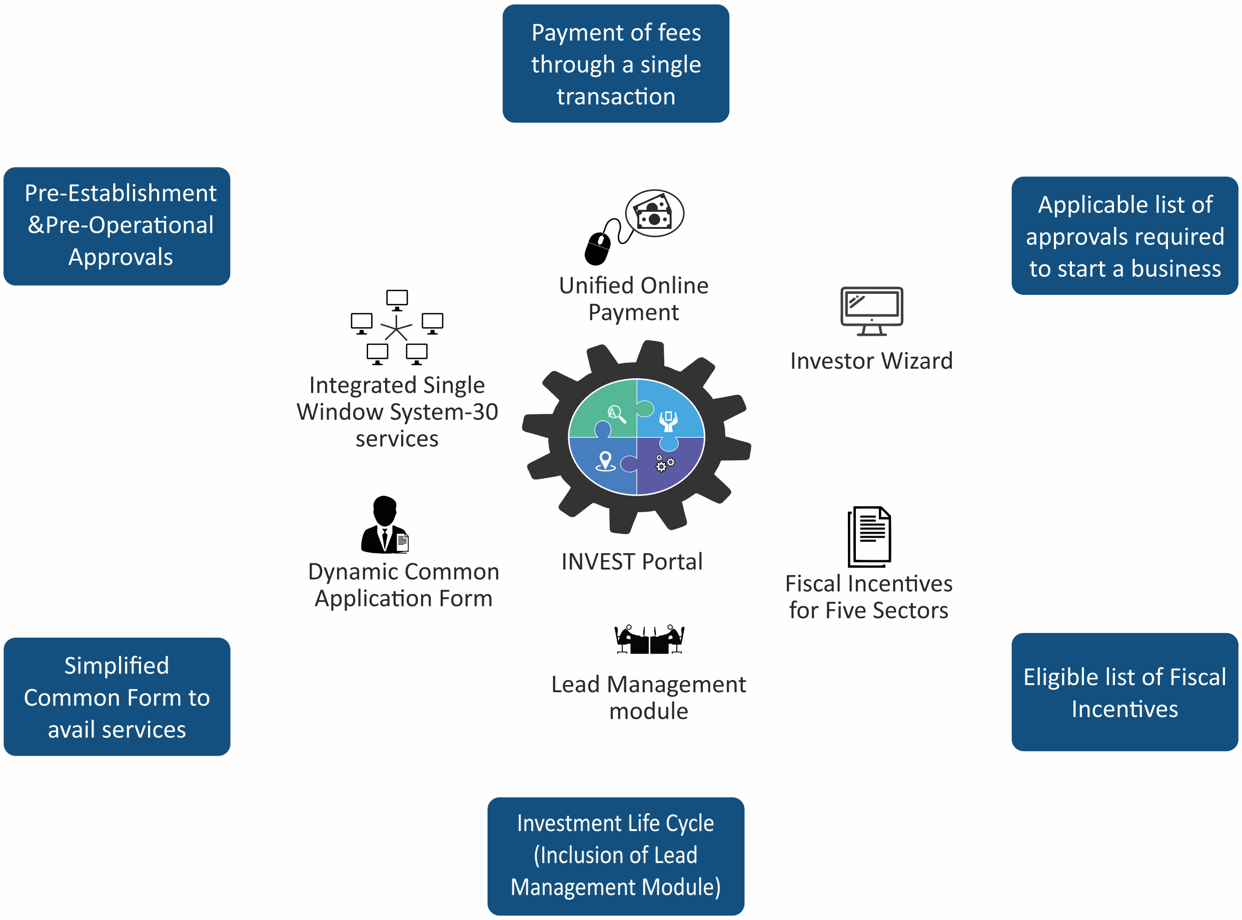
- IT enabled infrastructure to facilitate investment related activities,
- Simplified processes for setting up a business,
- Allocation of time in obtaining pre-establishment and pre-operational approvals.

Introduction of the online Single Window System in form of 'INVEST Portal' has been the best example of the use of technology for faster business approvals / clearances. The INVEST Portal covers the entire investment lifecycle of an investment proposal, including various stages like initial proposal, lead generation, application stage, approvals before establishment, incentive processing, approvals after establishment, incentive disbursal, renewal of approvals and expansion / diversification.

Salient Features of INVEST Portal

INVEST portal is an ambitious project which aims to work as single touch point for all investment needs of an investor. The portal shall have following key features:

1. Integrated Single Window System for pre-establishment and pre-operational approvals.
2. Investor shall have an automated tool (known as Investor Wizard) to understand the applicable list of approvals required to start his/her business in the state.
3. A dynamic Common Application Form (CAF), which is a simplified common form for availing services provided through Single Window System.
4. A Unified Payment Mechanism through which user shall pay the fees of all services availed by him through a single transaction on Single Window System.
5. All eligible fiscal incentives shall be provided through the INVEST portal itself.
6. INVEST portal shall cover the entire Investment Life Cycle, which would also include a Lead Management Module (lead generation, lead management and lead conversion).



The portal also endeavours to provide the following benefits to the users:

1. One stop solution for managing all investments in the state;
2. Single platform for interaction between investors and Government departments;
3. Simplified application process for investors & more user-friendly environment;
4. Real time Status tracking of applications;
5. Common repository of investor credentials;
6. Grievance handling mechanism;
7. Cater to all information requirements of investors;
8. Notification of all approvals / licenses under Public Service Guarantee Act to ensure time bound delivery

Conclusion

The state of Madhya Pradesh has made significant progress in establishing itself as one of the most lucrative places for entrepreneurial initiatives. It has been introducing business reforms at a rapid pace and has stayed among the top business destinations for investors. Introduction of more reforms and growing focus on quality of implementation will add further to the attractiveness of the state.

Best Practices

EODB Best Practices in the Global Sphere

Key Best Practices of Top Ranked Countries across Doing Business Indicators

NEW ZEALAND

- Single Procedure
- 0.5 day
- 0.2% of income per capita as a cost
- Zero Minimum capital requirement

Starting a Business

HONG KONG SAR, CHINA

- 11 Procedures
- 72 days
- 0.6% of warehouse value as a cost
- Building quality control index is 14

Dealing with Construction Permits

NEW ZEALAND

- 2 Procedures
- 1day
- 0.1% of property value as a cost
- Index of Quality of land administration is at 26.5

Registering Property

UNITED ARAB EMIRATES

- 2 Procedures
- 10 days
- Zero cost involved
- Index of Reliability of supply and Transparency of tariffs is at 8

Getting Electricity

NEW ZEALAND

- Index of Strength of legal rights is at 12
- Index of Depth of credit information is at 8
- Credit bureau coverage is 100.0
- Credit registry coverage is 0.0

Getting Credit

KAZAKHSTAN

- Index of corporate transparency is at 9
- Index of ownership and control is at 8
- Index of shareholder rights is at 10
- Index of shareholder suits is at 9
- Index of disclosure index is at 9
- Index of director liability is at 6

Protecting Minority Investors

DENMARK

- Documentary compliance takes 1 hour to export and import
- Border compliance takes zero hour to export and import
- No cost involved for Documentary & Border compliance for both export & import

Trading across Borders

HONG KONG SAR, CHINA

- 3 Payments are required in a year
- 34.5 hours per year
- Total tax and contribution rate is 22.9% of profit
- Postfiling index is 98.85

Paying Taxes

SINGAPORE

- 164 days
- 25.8% of claim value as a cost
- Index of Quality of judicial processes is at 15.5

Enforcing Contracts

JAPAN

- 0.6 years
- 4.2% of estate as a cost
- Recovery rate is 92.4cents on the dollar
- Index of Strength of insolvency framework is at 14.0

Resolving Insolvency

Key CII Initiatives

Key CII Initiatives

1. Conference on MNCs & India : Creating Mutual Value

December 2018; New Delhi; India

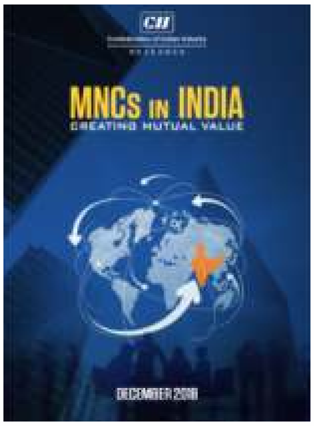
(L-R) Mr Sanjiv Mehta, Chairman, CII National Committee on MNCs & Chairman & Managing Director, Hindustan Unilever Limited; Mr Ramesh Abhishek, Secretary, Department for Promotion of Industry and Internal Trade (DPIIT), Government of India and Mr Chandrajit Banerjee, Director General, CII at the Conference on MNCs; organised on 13th December, 2019 in New Delhi.

Under the aegis of CII National Committee on MNCs, Chaired by Mr Sanjiv Mehta, Chairman and Managing Director, Hindustan Unilever Limited, CII organized the Conference on MNCs & India: Creating Mutual Value on 13 December 2018 in New Delhi. The programme, saw the active participation of several senior officials from the Government, including Mr Ramesh Abhishek, Secretary, DPIIT; Dr John Joseph, Member, Budget, CBIC; Mr Rashmi Ranjan Das, Joint Secretary, CBDT; and Mr Kamlesh Varshney, Commissioner of Income Tax, International Taxation, Ministry of Finance, among others.

The Conference discussed the contribution of MNCs in areas such as technology transfer, capacity building, innovation, employment, and social development besides identifying critical policy issues requiring redressal and suggesting the measures for a more business-friendly environment.

2. Report on MNSs in India- Creating Mutual Value

December 2018



Report on MNCs in India- Creating Mutual Value

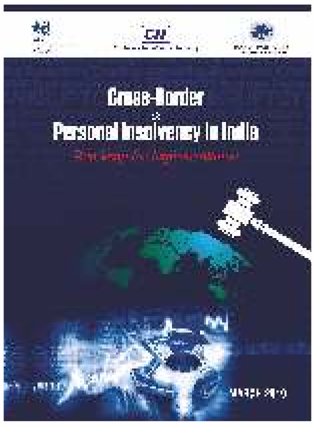
CII prepared a detailed report on 'MNCs in India – Creating Mutual Value', which highlights a few major contributions of foreign companies in India in both economic and social spheres and also describes the increasing facilitative policy environment provided by the government of India. The Report, released by Mr Ramesh Abhishek, Secretary, DPIIT suggests the scope for further improvement in business environment for MNCs, and dwells on issues such as restrictions on royalty payments, high corporate tax rate, regulatory hurdles in Intellectual Property Rights, transfer pricing issues, and data localization, among others.

3. CII- FCO Project on 'Support Development of Insolvency Regulatory Framework in India'

CII, in collaboration with the Foreign & Commonwealth Office (FCO), UK and the technical support of the AZB & Partners worked on the Project titled 'Support Development of Insolvency Regulatory Framework in India', which envisioned facilitating the development and implementation of a strong cross border and personal insolvency framework in India and implementing the best practices, drawing in from countries like UK. As a part of this endeavour, we developed a well-researched report on Cross - border and Personal Insolvency in India, conducted an extensive 2-day training Workshop for relevant government and private sector stakeholders to build capacity in the areas of cross-border and personal insolvency and organized a-day long Conference to discuss the roadmap for further strengthening the provisions of the IBC in India.

Report on Cross-border & Personal Insolvency in India - Roadmap for Implementation

March, 2019



Report on Cross-border & Personal Insolvency in India - Roadmap for Implementation

The Report on 'Cross Border and Personal Insolvency in India - Roadmap for Implementation' identifies and highlights some key infrastructural, institutional and legislative gaps while suggesting the best practices in the realm of cross–border and personal insolvency. It covers the current transnational insolvency mechanism in India, and further highlights the prospects of adopting the globally prescribed UNCITRAL model law within the Indian Insolvency environment. Further, the Report reviews the extant laws of Personal Insolvency in India, and in view of the evolving insolvency regime, attempts to identify the key challenges and provide a feasible path for the implementation of Insolvency & Bankruptcy framework for Individuals and Partnership firms.

National Conference on IBC, 2016: Progress and Setting the Roadmap for Implementation of Cross-Border and Personal Insolvency Framework'

March 2019; New Delhi; India

(L-R) Mr Kaustubh Pandey, Senior Financial Policy Advisor, British Deputy High Commission, Mumbai, Mr Rahul Ahluwalia, First Secretary (Financial Services), British Deputy High Commission, Mumbai; Mr Bahram N Vakil, Founder & Senior Partner, AZB & Partners; Dr M S Sahoo, Chairman, IBBI; Mr Injeti Srinivas, Secretary, Ministry of Corporate Affairs; Mr Sumit Mazumder, Past President & Chairman, Task Force on Ease of Doing Business, CII; and Mr Marut Sengupta, Deputy Director General, CII at the launch of the Report on 'Cross Border & Personal Insolvency in India – Roadmap for Implementation'

CII, in partnership with the Foreign Commonwealth Office (FCO) and AZB Partners, organized the National Conference on 'IBC 2016: Progress and Setting Roadmap for Implementation of Cross Border and Personal insolvency Framework' on 25th March 2019 in New Delhi. The programme witnessed the active participation of Mr Injeti Srinivas, Secretary, Ministry of Corporate Affairs, Dr M S Sahoo, Chairman, IBBI, Mr Bahram N Vakil, Founder & Senior Partner, AZB & Partners; and Mr Sumit Mazumder, Past President & Chairman, Task Force on Ease of Doing Business, CII. The accomplishments of the Insolvency and Bankruptcy Code (IBC), 2016, in its 2 years of implementation and the roadmap for implementation of cross border and personal insolvency laws in India were the key topics for discussion.

Training Workshop on Cross Border and Personal Insolvency

March, 2019

Mr Sumant Batra, Managing Partner, Kesar Dass B. & Associates in interaction with the participants at the Training Workshop on Cross Border Insolvency on 26th March, at Hotel Taj Mahal, New Delhi.

Mr Rob Downey, Director-Restructuring & Turnaround, EY, addressing the querries of participants at the Training Workshop on Personal Insolvency on 27th March, at Hotel Taj Mahal, New Delhi.

CII, in partnership with the Foreign Commonwealth Office (FCO), organized a 2-day Training Workshop on Cross Border and Personal Insolvency from 26th – 27th March 2019 in New Delhi. The Workshop Sessions were conducted by eminent experts including Mr Sumant Batra, Managing Partner, Kesar Dass B. & Associates, Mr Rob Downey, Director-Restructuring & Turnaround, EY, and Dr Renuka Sane, Associate Professor, NIPFP, among others. The programme provided an insight into the proposed laws for cross –border and personal insolvency, landmark case studies on the subject, recommendations for dealing with identified issues and learnings which can be adopted from the best practices of countries like UK.

World Bank Doing Business Ranking 2019

Rank	Economy
1	New Zealand
2	Singapore
3	Denmark
4	Hong Kong SAR, China
5	Korea, Rep.
6	Georgia
7	Norway
8	United States
9	United Kingdom
10	Macedonia, FYR
11	United Arab Emirates
12	Sweden
13	Taiwan, China
14	Lithuania
15	Malaysia
16	Estonia
17	Finland
18	Australia
19	Latvia
20	Mauritius
21	Iceland
22	Canada
23	Ireland
24	Germany
25	Azerbaijan
26	Austria
27	Thailand
28	Kazakhstan
29	Rwanda
30	Spain
31	Russian Federation
32	France
33	Poland
34	Portugal
35	Czech Republic
36	Netherlands
37	Belarus
38	Switzerland
39	Japan
40	Slovenia
41	Armenia
42	Slovak Republic
43	Turkey
44	Kosovo
45	Belgium
46	China
47	Moldova
48	Serbia
49	Israel
50	Montenegro
51	Italy
52	Romania
53	Hungary
54	Mexico
55	Brunei Darussalam
56	Chile
57	Cyprus
58	Croatia
59	Bulgaria
60	Morocco
61	Kenya
62	Bahrain
63	Albania
64	Puerto Rico (U.S.)
65	Colombia
66	Luxembourg
67	Costa Rica
68	Peru
69	Vietnam
70	Kyrgyz Republic
71	Ukraine
72	Greece
73	Indonesia
74	Mongolia
75	Jamaica
76	Uzbekistan
77	India
78	Oman
79	Panama
80	Tunisia
81	Bhutan
82	South Africa
83	Qatar
84	Malta
85	El Salvador
86	Botswana
87	Zambia
88	San Marino
89	Bosnia and Herzegovina
90	Samoa
91	Tonga
92	Saudi Arabia
93	St. Lucia
94	Vanuatu
95	Uruguay
96	Seychelles
97	Kuwait
98	Guatemala
99	Djibouti
100	Sri Lanka
101	Fiji
102	Dominican Republic
103	Dominica
104	Jordan
105	Trinidad and Tobago
106	Lesotho
107	Namibia
108	Papua New Guinea
109	Brazil
110	Nepal
111	Malawi
112	Antigua and Barbuda
113	Paraguay
114	Ghana
115	Solomon Islands
116	West Bank and Gaza

Rank	Economy
117	Eswatini
118	Bahamas
119	Argentina
120	Egypt, Arab Rep.
121	Honduras
122	Côte d'Ivoire
123	Ecuador
124	Philippines
125	Belize
126	Tajikistan
127	Uganda
128	Iran, Islamic Rep
129	Barbados
130	St. Vincent and the Grenadines
131	Cabo Verde
132	Nicaragua
133	Palau
134	Guyana
135	Mozambique
136	Pakistan
137	Togo
138	Cambodia
139	Maldives
140	St. Kitts and Nevis
141	Senegal
142	Lebanon
143	Niger
144	Tanzania
145	Mali
146	Nigeria
147	Grenada
148	Mauritania
149	Gambia
150	Marshall Islands
151	Burkina Faso
152	Guinea
153	Benin

Rank	Economy
154	Lao PDR
155	Zimbabwe
156	Bolivia
157	Algeria
158	Kiribati
159	Ethiopia
160	Micronesia, Fed. Sts.
161	Madagascar
162	Sudan
163	Sierra Leone
164	Comoros
165	Suriname
166	Cameroon
167	Afghanistan
168	Burundi
169	Gabon
170	São Tomé and Príncipe
171	Iraq
172	Myanmar
173	Angola
174	Liberia
175	Guinea-Bissau
176	Bangladesh
177	Equatorial Guinea
178	Timor-Leste
179	Syrian Arab Republic
180	Congo, Rep.
181	Chad
182	Haiti
183	Central African Republic
184	Congo, Dem. Rep.
185	South Sudan
186	Libya
187	Yemen, Rep
188	Venezuela, RB
189	Eritrea
190	Somalia

Source : Doing Business Report, World Bank, 2019


50% MORE POWER
Godrej
Good knight
POWER ACTIV+
50%* MORE POWER
POWER ACTIV+
50%* MORE POWER
Zyaada power
push karo,
zyaada khush raho
*In comparison to TFT 0.88% Liquid Vapouriser when tested in standard lab conditions

Confederation of Indian Industry

The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the development of India, partnering industry, Government, and civil society, through advisory and consultative processes.

CII engages closely with Government on policy issues and interfaces with thought leaders to enhance efficiency, competitiveness and business opportunities for industry through a wide portfolio of specialized services and strategic global linkages. It also provides a platform for consensus-building and networking on key issues. Extending its agenda beyond business, CII facilitates corporate initiatives for integrated and inclusive development across diverse domains.

India is now set to become a US$ 5 trillion economy in the next five years and Indian industry will remain the principal growth engine for achieving this target. With the theme for 2019-20 as 'Competitiveness of India Inc - India@75: Forging Ahead', CII will focus on five priority areas which would enable the country to stay on a solid growth track. These are - employment generation, rural-urban connect, energy security, environmental sustainability and governance.

Founded in 1895, India's premier business association around 9000 members, from the private as well as public sectors, and an indirect membership of over 300,000 enterprises from around 276 national and regional sectoral industry bodies. With 66 offices, including 9 Centres of Excellence, in India, and 10 overseas offices in Australia, China, Egypt, France, Germany, Singapore, South Africa, UAE, UK, and USA, as well as institutional partnerships with 355 counterpart organizations in 126 countries, CII serves as a reference point for Indian industry and the international business community.

Confederation of Indian Industry

RESEARCH

CII Research is an Industry think-tank providing thought leadership on strategic economic and industry issues critical to national growth and development. Drawing on a deep reservoir of industry leaders and industry associations spanning all sectors and present across the country, CII Research originates analytical reports in consultation with stakeholders. Based on strategic perceptions and data, these in-depth insights suggest specific policies and action plans that would enhance the role of Indian industry in nation-building.

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