



Ministry of Corporate Affairs

Year End Review -2019 of Ministry of Corporate Affairs

Several initiatives taken for providing Ease of Doing Business to law abiding corporates

Creation of Institution of a robust Insolvency & Bankruptcy framework

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In pursuance to objective of providing greater “Ease of Doing Business” to all stakeholders, bring about greater transparency in corporate structure and fostering better Corporate compliance so as to enhance the efficiency of the processes under Companies Act ,2013 , the Ministry of Corporate Affairs (MCA) has taken several landmark initiatives / decisions during last one year (January-November ,2019) .

India has improved its ranking on the World Bank’s “Doing Business” 2020 report. As per the report, India has moved up 14 positions to 63rd position as compared to 77th position in 2018. India’s leap of 14 ranks in the Ease of Doing Business ranking is significant considering that there has been continuous improvement since 2015 and for the third consecutive year India is amongst the top 10 improvers. Ministry of Corporate Affairs has contributed towards insolvency resolution. **As per the latest Report in the Resolving Insolvency Index, India’s ranking jumped 56 places to 52 in 2019 from 108 in 2018. Recovery rate increased from 26.5% in 2018 to 71.6% in 2019 and time taken in recovery improved from 4.3 years in 2018 to 1.6 years in 2019.**

A number of steps to provide Ease of Doing Business to law abiding corporates have been implemented by the Ministry in the recent past, which are as follows :

- Integrated Incorporation Form - Simplified Proforma for Incorporating Company Electronically (SPICe) introduced which extends 8 services (CIN, PAN, TIN, DIN, Name, EPFO, ESIC and GSTN) from three Ministries through a single form.
- **De-criminalization of technical & procedural violations under Companies Act** and reducing the burden on criminal courts & NCLT by shifting 16 offences sections to monetary penalty regime vide Companies (Amendment)Bill , 2019 notified on 31st July ,2019
- Government Process Re-Engineering by Introducing “RUN – Reserve Unique Name” web service for name reservation for companies & LLPs, Re-engineering the Process of allotment of Director Identification Number (DIN), Zero MCA fee for company incorporation up to Rs 15 lakh authorized capital, Condonation of Delay Scheme (CODS) 2017.

- Revised De-Minimis exemption under Competition Act 2002 for speeding up Mergers & Acquisitions of companies in the country.
- **Introduction by CCI of an automatic system of approval for combinations under Green Channel.** Under this process, the combination is deemed to have been approved upon filing the notice in the prescribed format. This system would significantly reduce time and cost of transactions.
- **Exemptions from various provisions of Companies Act to Private companies, Government Companies, Charitable companies, Nidhis and IFSC (GIFT city) companies.**
- **Provisions relating to issue of shares with Differential Voting Rights (DVRs) modified** with the objective of enabling promoters of Indian companies to retain control of their companies in their pursuit for growth and creation of long-term value for shareholders, even as they raise equity capital from global investors.
- **Enabling provisions with regard to Mediation and Conciliation under the Companies Act, 2013 enforced.**
- **Harmonising norms with SEBI by reducing the time limits of public offers so that investors get securities within three days of application instead of earlier six days**
- Import of section 232(6) of the Act has been clarified which would result into harmonisation of practices in ascertaining the “appointed date” of merger/amalgamation and provide due clarity on the accounting treatment, thereby allowing stakeholders to align the “appointed date” of merger/amalgamation in accordance with their business considerations or legal requirements. This would also contribute significantly in the ease of Doing Business.
- **Provisions relating to creation of Debenture Redemption Reserve (DRR) revised** with the objective of deepening the bond market & reducing the cost of capital by:
 - removing the requirement for creation of a DRR of 25% of the value of outstanding debentures in respect of listed companies, NBFCs registered with RBI and for Housing Finance Companies registered with National Housing Bank (NHB) both for public issue as well as private placements;
 - Reduction in DRR for unlisted companies from the present level of 25% to 10% of the outstanding debentures.
- **Launched Independent Director’s Databank** to provide an easy to access & navigate platform for the registration of existing Independent Directors as well as individuals aspiring to become independent directors.
- Setting up Central Registration Centre for name reservation and incorporation of companies & LLPs within 1-2 days as opposed to an average of at least 15 days earlier.
- During the last three years more than 1,25,000 companies have been incorporated every year in the country in this manner, as compared to 50-60,000 companies in earlier years.
- **Dematerialisation of Securities of Unlisted Public Companies**
- **Companies (Registered Valuers & Valuation) Rules**
- **Companies (Adjudication of Penalties) Rules amended making the process transparent and non-discretionary.**
- National Guidelines on Responsible Business Conduct
- Withdrawal of more than 14,000 prosecutions under the Companies Act, 2013.
- Rationalization of Related Party Transaction related provisions
- **Initiation of Phase-II of Decriminalization of Penal provisions under Companies Act, 2013.**
- First National CSR Awards distributed

Steps taken for creation of an Institution of a robust Insolvency & Bankruptcy framework are as follows:

- **The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019** was introduced in the Lok Sabha on 12th December, 2019. The Statement of objects and reasons of the Bill states that a need was felt to give the highest priority in repayment to last mile funding to corporate debtors to prevent insolvency, in case the company goes into corporate insolvency resolution process or liquidation, to prevent potential abuse of the Code by certain classes of financial creditors, to provide immunity against prosecution of the corporate debtor and action against the property of the corporate debtor and successful resolution applicant subject to fulfilment of certain conditions.
- **The Insolvency and Bankruptcy Code (Amendment) Bill, 2019 was passed by Parliament and has come into effect from 16.8.2019.** This amendment Bill provides for the timely conclusion of cases, greater flexibility for corporate restructuring for maximizing value of assets, protecting primacy of secured creditors and removing voting deadlock of homebuyers, etc.
- **The Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 were issued on 15th Nov, 2019** which provide a generic framework for insolvency and liquidation proceedings of Financial Service Providers (FSPs) other than banks. The Rules apply to such FSPs or categories of FSPs, as will be notified by the Central Government under section 227 from time to time in consultation with appropriate regulators, for the purpose of their insolvency and liquidation proceedings. The Rules essentially aim to serve as an interim mechanism to deal with any exigency pending introduction of a full-fledged enactment (FRDI Bill) to deal with financial resolution of Banks and other systemically important financial service providers.
- **Notification of clause (e) of section 2 of IBC was issued on 15th Nov, 2019 and enforced from 1st Dec, 2019 to extend the scope of the IBC by bringing the resolution and bankruptcy of personal guarantors of corporate debtors under IBC.** Insolvency Resolution and Bankruptcy of personal guarantors under the IBC would complement the insolvency resolution of the corporate debtor and put personal guarantors & corporate guarantors on the same level playing field. It will bring much needed borrowing discipline and propel a cultural change in banking relationships.
- **The Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 & The Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Guarantors) Rules, 2019 were issued on 15th Nov, 2019** and will be enforced from 1st Dec, 2019. The rules provide for resolution for individuals under the Insolvency and Bankruptcy Code (IBC) which is being implemented in a phased manner. The IBC envisages reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all stakeholders. The provisions of the IBC relating to corporate processes (insolvency resolution, fast track resolution, liquidation and voluntary liquidation) have since been operationalised. These Rules provide for the process and forms of making applications for initiating insolvency resolution and bankruptcy proceedings against personal guarantors to CDs, withdrawal of such applications, forms for public notice for inviting claims from the creditors, etc.
- The Insolvency and Bankruptcy Code, 2016 was amended twice in 2018 to disqualify undesirable persons from regaining control of companies undergoing resolution and to balance the interests of various stakeholders in the Code, especially interests of home buyers and micro, small and medium enterprises, promoting resolution over liquidation of corporate debtor by lowering the voting threshold of committee of creditors and streamlining provisions relating to eligibility of resolution applicants

Achievements of Insolvency and Bankruptcy Code, 2016 (IBC) so far :

- Out of 21,136 applications filed :-
- 9,653 cases involving a total amount of approx. Rs.3,74,931.30 Cr have been disposed off at pre-admission stage of IBC.
- 2838 cases were admitted into Corporate Insolvency Resolution Process (CIRP) out of which 306 cases are closed by appeal/review/withdrawn.
- In the 161 resolved cases, the realizable amount is Rs. 1,56,814 crore.
- **World Bank Doing Business Report 2020 - Resolving Insolvency Index :-**
- **India's ranking jumped 56 places to 52 in 2019 from 108 in 2018.**
- **Recovery rate increased from 26.5% in 2018 to 71.6% in 2019.**
- **Time taken in recovery improved from 4.3 years in 2018 to 1.6 years in 2019.**

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