

## **Ease of doing business: Four key parameters on which India needs to improve**

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### **The country is still ranked below 100 in starting a business, registering property, enforcing contracts and paying taxes**

While India has improved its overall ranking to the 63rd place in 2019 from 77th in 2018, in terms of ease of doing business, it is still way behind on certain parameters, with top government officials admitting that much work needs to be done. The four parameters in which India is still ranked below 100 among 190 countries are 'Starting a Business', 'Registering Property', 'Enforcing Contracts' and 'Paying Taxes'.

In starting a business, India is ranked at 136, gaining just one position from 2018. In registering property, it is ranked at a lowly 154. For enforcing contracts country's position remained stagnant way down at 163. On the other hand, its place in paying taxes improved slightly from 121 in 2018, but it still was at 115th.

"In starting business, our improvement has just been by one rank. Starting business is a very critical point in the lifecycle of an industry. I would want to make sure that the department of industry, together with us and all others concerned, will make enough effort to improve on that scale," promised Finance Minister Nirmala Sitharaman last week, the day ease of doing business rankings for 2019 were released.

Sitharaman pointed out that to improve ease of paying taxes, the Goods and Service Tax Council will take steps in its future meetings to enable ease of compliance in GST. "Ease of compliance in GST is an ongoing process. We are examining where the difficulties are, the need to bring in better technology, and also faceless assessments that we are doing, what were the glitches in online filing of returns. In the next GST council meeting, we want to make sure several steps are taken to improve GST compliance."

Enforcing contracts is an issue grappled by businesses, particularly at the lower judiciary. In fact, World Bank President David Malpass said India needs to provide adequate resources to commercial courts at the district level for judgments to flow faster. "Small claims courts are needed to help people enter into contracts which they know can be enforced," he said.

It takes 1,445 days to resolve a dispute on an average in India. The time taken is higher than the average of 1,101.6 days in South Asia, which also includes Pakistan, Nepal, Bhutan, Sri Lanka, Bangladesh and the Maldives.

In Singapore, which is the most efficient country in enforcing contracts, it takes just 120 days to resolve a dispute.

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The Bank counts the days from the moment the plaintiff decides to file the lawsuit in court until payment. This includes both the days when actions take place and the waiting periods in between.

Cost of enforcing contracts constituted 31 per cent of the claims in India, higher than average 29.9 per cent in South Asia. The most efficient economy in this respect is another south Asian economy Bhutan, where it was just 0.1 per cent.

"Time has come to revamp the judicial system when it comes to enforcing contracts, especially where foreign parties are involved. This can be expedited by keeping a check on pendency and reasons for delay," said Abhishek Rastogi, partner at Khaitan & Co.

The latest Economic Survey for 2018-19, penned by chief economic advisor Krishnamurthy Subramanian, said arguably the single biggest constraint to ease of doing business in India is now the ability to enforce contracts and resolve disputes.

"This is not surprising given the 35 million cases pending in the judicial system. Much of the problem is concentrated in the district and subordinate courts," it said.

However, it did not find the problem insurmountable, contrary to conventional belief.

A case clearance rate of 100 per cent (i.e. zero accumulation) can be achieved with the addition of merely 2,279 judges in the lower courts and 93 in High Courts even without efficiency gains, it said. This is already within sanctioned strength and only needs filling vacancies.

Scenario analysis of efficiency gains needed to clear the backlog in five years suggest that the required productivity gains are ambitious, but achievable.

"Given the potential economic and social multipliers of a well-functioning legal system, this may well be the best investment India can make," the survey said.

When it comes to paying taxes, the biggest culprit is the goods and services tax (GST), which is over two-year old. It takes 141 days a year in India to pay GST even though the system is online.

Overall, it takes 250 days in Delhi and 254 days in Mumbai a year to pay various types of taxes. On the other hand, it takes just 49 days in the most efficient economies in the world to pay GST.

Pointing to the cumbersome process, Abhishek Jain, partner at EY, said companies have to file state-wise invoice level data in the form GSTR1.

In fact, due to the complicated process, the GST Council suspended GSTR2 which is sellers return and auto populated form GSTR3.

The GST Council is in the process of simplifying these returns. However, the simplified returns were to be introduced from the beginning of the current financial year. Now, these would be effective in phases and all assesseees would have to file new forms from the beginning of the next financial year.

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However, Jain felt that the process of filing returns would not be simple even then.

This is so because new proposed return ANX1 need to be filed at the invoice level. Also, businesses will have to reconcile their purchase side with ANX2 for availing the input tax credit.

"One contributor for India's dismal performance in ease of paying taxes could be on account of multiple data points under GST like monthly outward transactions return, summary return, e-way bill coupled with annual compliances like annual return and audit," said Harpreet Singh, partner KPMG.

He said most developed countries have a single data point for transactions tax. The GST Council has decided to introduce e-invoicing from April one, next year. Singh hoped that this seems to be on the right path to have a single data point, reducing compliances.

Experts said paying corporation tax is quite easy in India. Neeru Ahuja, partner at Deloitte India, said payments are done electronically through authorised bankers and the process is completed in a few hours if not minutes.

However, the data provided by the World Bank showed that it still takes 25 hours in a year to pay corporation tax.

Ahuja said, "Of course, the company needs to have its information regarding permanent account number, assessment year etc at hand before initiating the payment."