



drishti

Steps to Boost Ease of Doing Business

 drishtiias.com/printpdf/steps-to-boost-ease-of-doing-business

Why in News

Recently, the Government of India has decided to bring various amendments to **Insolvency and Bankruptcy Code (IBC)** and Companies Act, 2013 to enhance **ease of doing business** in the country.

- The amendments to these laws are a part of the government's **economic stimulus** package announced under **Atmanirbhar Bharat Abhiyan**.
- India was placed at **63rd position** in the **World Bank's ease of doing business report, 2020** out of 190 countries.

Key Points

- **Changes in Insolvency and Bankruptcy Code (IBC):**
 - Minimum threshold to initiate insolvency proceedings has been **raised to Rs.1 crore** (from Rs.1 lakh, which largely insulates **Micro, Small and Medium Enterprises-MSMEs**).
 - Suspension of fresh initiation of insolvency proceedings up to one year, depending upon the pandemic.
 - Empowering the Central Government to exclude Covid-19 related debt from the definition of "default" under the IBC for the purpose of triggering insolvency proceedings.

- **Decriminalisation under Companies Act, 2013:**
 - The move seeks to **remove criminal penalties** from all provisions of the Companies Act, except provisions dealing with fraudulent conduct.
 - The decriminalised offences include administrative offences such as delays in filing **Corporate Social Responsibility (CSR)** reports, or failure to rectify the register of members in compliance with orders from the **National Company Law Tribunal (NCLT)**.
 - A number of offences under the Act previously classified as compoundable offences will not have imprisonment penalty now.
 - Compoundable offences are those offences that have either imprisonment or fines as punishments.
 - Some of the **offences under the Act have been omitted altogether** while **others have been shifted from the purview of the NCLT** to an in-house adjudication mechanism.
 - Under the in-house adjudication mechanism the matter will be dealt by the Registrar of Companies (RoC).
 - The RoC is empowered to decide penalties for the offences under the Act.
- **Other changes to raise funds for companies:**
 - Direct listing of securities by Indian public companies in permissible foreign jurisdictions.
 - Private companies which just want to list **Non-Convertible Debentures (NCDs)** on stock exchanges not to be regarded as listed companies.
 - This will bring additional sources of funding to companies who do not wish to comply with the regulations applicable to listed companies.
- **Rationale behind the Amendment:**
 - The decriminalisation efforts are to **pull back on regulations introduced in 2014** aimed at boosting corporate compliance.
 - **As compliance levels have improved**, the government now felt a need to **boost ease of doing business** and therefore, it has started to relax criminal provisions.
 - These moves will bring great relief to companies as they can **focus on business revival rather** than worry about defaults and compliance.
 - These measures will prove to be **instrumental in easing the financial situation** of firms especially, MSMEs who have been one of the biggest victims of this pandemic crisis.
 - These amendments are admirable steps towards the three-pronged goal of:
 - Reducing the burden on company courts,
 - Ensuring investor interests, and
 - Facilitating the ease of doing business.
 - This could well be the step towards showing intent to incentivize domestic and global investments, especially post Covid-19.

- **Issues involved:**

- The move will **hamper the recovery proceedings of financial institutions** and lead to an **increase in the non-performing asset**.
- Suspension of insolvency initiation for up to a year may protect promoters from losing control of their companies **but will not prevent creditors from seeking recoveries through other means**.
- Decriminalisation of provisions in Companies Act are unrelated to Covid-19 and had been announced before the lockdown as part of previously planned reforms.

Sources: IE