

LABOUR PAINS

As regards foreign investment, India suffers a constant global backlash on 3 counts - Land, Labour, Logistics. With 30 years' experience in guiding foreign corporate entry to India, we are aware that labour is the real thorn for most, with logistics a close second. Put aside foreign investors, Indian entrepreneurs too have issues, though they learned to cope or rather adjust, for which the economy paid a price. To get around these complex, archaic and inconsistent labour legislations, contract labour has become increasingly popular (up from 26% in 2004 to 36% by 2018), as did the creation of multiple entities to avoid impact as a single entity.

The Indian mid-segment, the heart of any economy, remains fragmented. This had a cascading effect as without core focus and consolidation, family groups, unlike in Europe, continuously split and further fragmented. Mega factories remain a distant Chinese dream, not just on account of labour, but also land availability and poor logistics. When planning a production base, say in China, large MNCs normally plan structures with 3000+ people. In India, if done, it is unusual and celebrated. Maybe, the revised labour laws could make a dent.

India has merged around 44 central labour laws (roughly translates into 423 labour related acts of centre and state, which translate to 31,605 compliances and 2,913 periodic filings) into 4 specific codes i.e. Wage Code, Industrial Relations Code, Social Security Code and Occupation Safety, Health and Working Conditions Code. The last one is an exhaustive list of working conditions and safety issues leaving little room for misinterpretation. Wisely, these Codes talk to each other and definitions are standard, unlike earlier laws that sat at cross purposes e.g. the term "worker" had varied meaning in labour legislations which is now classified as anyone in a supervisory capacity and drawing less than Rs. 18,000 per month. Because of such vagaries, it was not uncommon for a business to be fully compliant under one legislation and taken to task on another. The detailed rules will follow, but we hope to see harmony and not bureaucratic pitfalls through follow on clarifications.

Sensibly, the Wage Code defines minimal wage and leaves it to State Governments to notify their view.

The bonus pay-outs remain more or less unchanged, though gender discrimination in pay-outs has been prohibited. Happily, and eluding to my opening remarks, employing contract labour in core activities is now banned. This is good for the labour force and forms the first steps to building larger factories as a norm and not the exception. In a similar sprit, and to encourage our mid segment companies, closure, layoff or retrenchment that earlier required Government approval in respect of establishments with 100 workers will now apply to those establishments with over 300 workers. At the same time the voice of workers through trade unions is not weakened. On the contrary, it appears to be more purposeful and meaningful.

Indian or foreign investors, planning large operations in India, are ever concerned about non-controllable disputes with labour or dealing with multiple labour authorities. Equally, the labour force is perpetually suspicious of management intent and rely on a strong union to handle their concerns. Both are concerned about clear time limits to resolve issues. Now, there is direction as to who you talk with and how to resolve issues. Strikes are no longer a Bollywood drama of "we are now on strike". 60 days' notice must be given and then the representatives responsible for negotiating with the management are defined i.e. if a trade union enjoys 51% of workers as members, then their representative. In other cases, all trade unions having over 20% members will have a representative on the negotiating council. The approach and time limits are set for such negotiations or for matters which move to labour law bodies, where plans are afoot to set-up an Industrial tribunal instead of the present system with a myriad of multiple adjudicating bodies. Lockouts are never beneficial to any party and, hopefully, we will have a more trust based transparent environment.

We keenly await the detailed rules and processes which would clarify if we are set for fine sailing or left adrift. If the intent is right, and implemented as such, we could see a reduction in compliance, strengthening of law enforcement and, generally, peacefully resolution of disputes.

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