

From Companies Act to foreign listings, govt takes up big corporate reforms

Finance Ministry says GST compensation to states pending for Dec-March FY20

NEW DELHI: The economic package to tide over the coronavirus pandemic has also come out with some major reform and market-freeing announcements, and Sunday was no different with Finance Minister Nirmala Sitharaman laying down a number of reforms for the corporate sector ranging from decriminalisation of the Companies Act to permitting direct listing of Indian public companies in other countries. Announcing the fifth and final tranche of the Rs 20 lakh crore economic package here, Sitharaman said that minor technical and procedural defaults under the Companies Act will be decriminalised. The decriminalised violations include shortcomings in CSR reporting, inadequacies in board reports, filing defaults, and delay in holding of annual general meetings. Further, the government will drop seven compoundable offences and five offences will be dealt with under an alternative framework.

In yet another move towards fuller capital account convertibility, the government has thrown open the doors for Indian public companies to directly list their shares abroad and access a larger pool of capital. It has also allowed private companies that

list NCDs on stock exchanges not to be regarded as listed companies. Sitharaman said that direct listing of securities by Indian public companies would be allowed in permissible jurisdictions. Necessary regulations allowing direct overseas listing by the Indian entity is expected soon after amendments to the Company Act and FEMA regulations are passed. At present, direct listing by the Indian companies on foreign stock exchanges is not permitted. Likewise, foreign companies are also not allowed to directly list their equity shares on the Indian stock exchanges.

Furthering the agenda of ease of doing business in the country, the minister announced a slew of relaxation measures including lower penalties for all defaults for small companies, one-person companies, producer companies and start-ups. The government will also take steps towards creating additional and specialised benches of the National Company Law Appellate Tribunal (NCLAT). This has been under consideration for some time now. Further, heeding the call from the industry, MSMEs and several experts, the government has also decided to set up a special insolvency framework

for MSMEs under Section 240A of the Insolvency and Bankruptcy Code. This has been a long pending demand of the industry and economists. The threshold for insolvency will also be raised to Rs 1 crore from the current Rs 1 lakh which will be supportive for the MSME sector.

Also, no fresh insolvency case will be admitted for the next one year under the Insolvency and Bankruptcy Code (IBC) in view of the coronavirus pandemic. The measures have been acknowledged by the industry and experts. Assocham President Niranjn Hiranandani said that the industry is elated with the fifth and final tranche of measures involving relief to the business community by removing several impediments like the exclusion of debts under IBC related to COVID and decriminalising of Companies Act violations involving minor technical and procedural defaults. Hiranandani said that the industry had been demanding these reforms to prevent unnecessary stress and pressure facing by the MSME due to costly litigation and fear of criminal proceedings.

Sumit Batra, a corporate lawyer, said that decision to increase the threshold limit to initiate proceedings

under IBC from the existing limit of Rs 1 lakh to Rs 1 crore, exclusion of default due to Covid-19 and fresh insolvency cases for 1 year will benefit businesses but will hamper the recovery prospects of financial institutions in cases of existing defaults by a corporate entity. Batra, however said that the economic package is likely to provide assistance and incentives to sectors in order to recover from the economic slump but the proposed amendments to IBC will in no way address those issues.

Harish Sharma, Executive Director of REPL, said that the last tranche by the Finance Minister brings in a positive vibes for the corporates as well as MSMEs as no fresh insolvency proceeding will be initiated up to one year which would allow them to work fearlessly. "Apart from this, decriminalisation of Companies Act involving minor technical and procedural defaults will also benefit the corporates at large.

NEW DELHI: Finance Minister Nirmala Sitharaman on Sunday said GST compensation is due to all the states for the four-month period of December-March. "We are periodically talking about it. GST dues are very clearly explained in the GST Council. It is not for selective states...All states' GST dues which we recognise for December, January, February, March have not been paid," Sitharaman told reporters here.

Under GST law, states are guaranteed to be paid for any loss of revenue in the first five years of the

GST implementation from July 1, 2017. The shortfall is calculated assuming a 14 per cent annual growth in GST collections by states over the base year of 2015-16. Under the GST structure, taxes are levied under 5, 12, 18 and 28 per cent slabs.

On top of the highest tax slab, a cess is levied on luxury, sin and demerit goods and the proceeds from the same are used to compensate states for any revenue loss.

There were no differences between the Centre and states with regard to compensation payment in 2017-18, 2018-19 and in the first four months (April-July) of the previous fiscal (2019-20). However, with revenue mop-up from compensation cess falling, the Centre held back fund transfer to states beginning August. Following this, states raised

the issue with the Centre and in December 2019, Rs 35,298 crore was released as compensation for August-September, while Rs 34,053 crore was released in two instalments in February and April as compensation for October-November.

The Centre has, so far, released over Rs 2.45 lakh crore as GST compensation to states since the implementation of the new indirect tax regime on July 1, 2017. During July 2017-March 2018, Rs 48,785 crore was released, while between April 2018-March 2019, Rs 81,141 crore was paid to states. For April-May and June-July last year, Rs 17,789 crore and Rs 27,956 crore were released. Further, Rs 35,298 crore was paid to states as compensation for August-September and Rs 34,053 crore for October-November 2019.

