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INTERVIEW WITH
GOPAL KRISHNA AGARWAL
Government Nominee in the Central Council, ICSI



INTERVIEW WITH
BVR MOHAN REDDY
Executive Chairman, Cyient Limited



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STRAIGHTENED CREASES, SMOOTHENED ROADS...



GOPAL KRISHNA AGARWAL

Government Nominee in the Central Council, ICSI
gopalagarwal@hotmail.com

In Conversation with
CS (Dr.) Pooja Rahi, The ICSI

A jump from 142 to 130, an year of stabilisation followed by a 30 point jump and then another of 23 points, the Indian Economy is definitely grabbing eyeballs for its stupendous performance on the World Bank's Ease of Doing Business Index for the year 2018. Not only does it make us all proud but is also an eye opener for what it shall take to reach the target which is another 27 points away but with the right approach seemingly not too far.

Reaching 77 is no small feat and one definitely wonders what made it happen; and who would be a better person than a man with economic prowess and a close connection with policy formulators to zealously give a peep into the back-end efforts over the years making this achievement see light of the day. In a face to face with CS (Dr.) Pooja Rahi, ICSI, **Shri Gopal Krishna Agarwal**, Government Nominee to the Central Council of the ICSI and BJP National Spokesperson shares his take on the focussed approach of the government and its humble attempt in setting things right. An economic thinker, a social activist and a thorough professional himself, he talks of not only doing business, the ease, the ups and downs, the road ahead and plenty more...

In 2014, India stood at 142nd place in the global Ease of Doing Business (EODB) Ranking. It was then envisioned that the nation shall strive to rise up to a targeted position of 50. The jumps over the years, bringing the Indian economy to a standing

of 77th rank, it can be said that a lot has been achieved. Being an economic thinker yourself and more so closely connected with policy making bodies, how do you think this was made possible?

It was made possible by focussed approach of the Government. When Modi Government came to power in 2014, it fixed its target to bring India within top 50 countries in the world in the annual 'EODB' ranking of the World Bank and then worked on the roadmap.

The Central Government analysed all the parameters that go into determine the ranking and worked on them meticulously. The focus was on reducing the number of permissions required, reducing human interface and compliance burden, using the prowess of Information Technology, emphasising on self-certification, simplification and digitisation.

But most importantly, this was made possible because the Government believes that Indian youth is full of entrepreneurial energy which the economy and the country were failing to harness and something had to be done about it and hence invested its political capital and energy in it.

The preparation of the report or the development of the Index is based on merely two cities, i.e., Delhi and Mumbai. In a nation of such economic and social diversity, how does this report reflect the overall Indian scenario?

It is true that the ranking is based on the survey conducted only in two cities - Delhi and Mumbai but we must keep in mind that this has not changed when India was ranked 142 and now when India is at 77th position. Thus, it cannot be denied that we have made a quantum jump.

Coming to the other part of the question, we must bear in mind that Delhi and Mumbai are pioneer cities and the regulatory regime of these cities will trickle down to other areas over a period of time. Hence, such areas would also see an improvement in the 'Ease of Doing Business'. Modi government in collaboration with the World Bank has also introduced an annual ranking of Indian states on the EODB. The focus on EODB has spawned a culture where the states are competing with one-another in the ease of doing business to attract investment to their states.

The Hon'ble Prime Minister had pinned his expectations with the nation to achieve 50th rank. With the current standing at 77th position, how can we strive to bridge the remaining numbers? What areas shall be focussed upon henceforth by the Government to make this dream a reality?



It is not only the improvement in the ranking of EODB but we are amongst the top 10 most reforming economies. In fact, Djibouti and India are the only economies to make to the list of 10 top improvers for the second consecutive year.

There are some areas holding scope to improve our ranking. In fact the work is already under progress in these areas and the results would be visible in due course of time. In the current ranking; we are at 137 in 'starting a business', at 166 in 'registering property', 163 in 'enforcing contracts' and so on. Proactive measures are being taken in these areas. Even Insolvency and Bankruptcy Code whose effect is captured in 'Resolving insolvency' and GST whose effect is captured under paying of taxes, etc., are work in progress and will impact the ranking positively in the coming years. Some of the reform measures like registration of property can only be addressed at the State level and the states are being encouraged by the Centre to do the same.

Concerted efforts have been made to eliminate the 'Inspector Raj' and simplify compliances further. Under the latest changes made for MSMEs, factory inspections will be done only through computerised random allotment and inspectors shall be required to upload reports on portal within 48 hours, with reasons.. MSMEs now are required to file one annual return for compliance within eight labour laws and 10 central rules. An Ordinance has also been promulgated to simplify levy of penalties for minor offences under the Companies Act and in the coming session of the Parliament, another amendment Act would be also passed.

A ranking of such accord is not a result of singular effort but multiplicity of actions in various areas. Which reforms have made this achievement possible?

It is not only the improvement in the ranking of EODB but we are amongst the top 10 most reforming economies. In fact, Djibouti and India are the only economies to make to the list of 10 top improvers for the second consecutive year. We have made significant achievement in 'dealing with construction permits' (184 in 2014 to 52 in 2018), 'getting electricity' (137 in 2014 to 24 in 2018), 'trading across borders' (126 in 2014 to 80 in 2018) and 'resolving insolvency' (137 in 2014 to 108 in 2018). In fact, if we compare India's ranking on the 10 parameters of EODB for the year 2014 and 2018, we see that we have improved on all the parameters except for 'registering property'.

GST is a relatively new reform and yet one of

the most impactful of them all. What role has the implementation of this law played in India's rise in the Index ladder?

In the 'paying taxes' parameter we were at 156 in 2014 and are now at 121. So there has been an improvement after the implementation of GST but this is not the full impact of this most significant indirect tax reform since independence.

GST is currently work in progress both for the government as well for the businesses. There are other issues like quick refund of input taxes, especially in the case of exporters. E-way bill is being implemented. Once these issues are taken care, we will see the true impact of GST in moving up the index ladder. Another important area which is e-assessment, is in the process of implementation.

Considering your close connections with professional bodies and with your keen knowledge and insight of their day-to-day functioning, you would be the best judge to tell the role played by ease in the compliance mechanism and structure in the corporate arena of the country. What factors have significantly contributed in this regard?

Governments all over the world feel certain measures in a given area to be a step towards desirable policy goals and want the people and companies operating in those areas to comply with those measures. At times ensuring these compliance requirements become quite cumbersome. Such situations should be removed by the government.

For example, in the area of labour laws, under the rubric of EODB, the Labour Ministry has taken number of steps to reduce the compliance burden of the industry. Under Ease of Compliance, the government has pruned the number of registers mandatory for all establishments to maintain under 9 Central Acts to just 5 from 56, and the relevant data fields to 144 from 933. The Registers/Forms can be maintained either in electronic form or otherwise. The Government has also made numerous technology-enabled transformative initiatives such as Shram Suvidha Portal, universal account number (UAN) and national career service portal in order to reduce the complexity burden and better accountability for enforcement. Similarly, the compliance burden for the start-ups under 6 labour laws has been considerably reduced by allowing for self-certification.

The Registrar of Companies has been completely revamped and the process of incorporating a new company has become seamless. In another attempt to ease compliance, the Government has also repealed more than 1000 old redundant laws.

In a country which has a historically strong business culture, contracts and their enforcement play a momentous role. Your mention of the same as one of the considerable reform areas further reiterates the point. Please elaborate on the



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contribution of this reform area as a significant role player.

In the parameter of 'Enforcing contracts' we ranked at 163 this year which is certainly poor. This is not surprising because our courts are clogged with huge pendency.

With a view to address the issue, provide faster resolution of matters relating to commercial disputes and to create a positive image particularly among foreign investors about independent and responsive Indian legal system, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act was enacted in 2015 and Commercial Courts were established at District Levels in all jurisdictions, except in the territories over which the High Courts have original ordinary civil jurisdiction.

Over the period, as the system of Commercial Court stabilises and commercial disputes are successfully settled, India will see a significant jump in this parameter. It is not to say that there has been no improvement in this parameter in the last four years. India was ranked 186th in 'Enforcing Contracts' in the World Bank's 2015

report (covering period from June 2013 to May 2014) which was closer to the bottom.

The Government is making attempts to reduce litigation over contract enforcement. There is Samadhan Portal of the MSME ministry for resolving delayed payment disputes of MSMEs, then there is a bill discounting platform, TReDS. Government is also discouraging its officers to go for appeals once a matter is settled in the lower courts, the government is apprised of the fact that large number of cases pending in the court has government as one of its litigants.

Corruption is usually termed as not just a speed hindrance in the growth of a nation but growth sucker. Governments across the globe take significant steps to fight this nuisance. What have these reforms been on the Indian side?

Fighting corruption was one of the issues on which the current government was voted to power and since coming to office the government has initiated a number of steps to stamp out corruption. One of the first steps of the current government was the Constitution of SIT on Black Money. It also came up with Voluntary Income Disclosure Schemes, Double Tax Avoidance Agreement (DTAA) were renegotiated, bank accounts linked with Aadhaar and PAN. Even so, relentless actions are being taken against Shell Companies, KYC and DIN has been made compulsory for all the Directors.

The focus has been on using technology and online compliances and permissions for eliminating corruption at the policy level, at the level of allocation of natural resources or at the level of regulatory and statutory permissions. Demands for bribes encountered by businessmen in their day to day activities have been sought to be curbed by methods like self-certification, randomised visits to factory premises, reduced human interface with the government, time bound clearances etc.

Demonetisation led to the unmasking of the anonymity associated with cash thereby establishing audit trail for business transactions and also led to formalisation of the economy. The information gathered from bank deposits has also led to an increase in tax base of the Indian Economy. Another important reform has been the notification of Benami Properties Act. It must be noted that though this Act was passed in 1988, it was enforced only recently. Another important legislation in the fight against corruption has been the enactment of Fugitive Economic Offenders Act of 2018 targeted against economic offenders who try to evade the process of the law by leaving the country. Goods and Services Tax (GST), too, has led to elimination of corruption in the indirect tax collection system.

The Institute of Company Secretaries of India has also come with a Corporate Anti-bribery Code which was released by the Prime Minister last year. It is a Code that the private sector is expected to adopt voluntarily



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to control corruption in the private sector.

In a diverse nation and economy such as ours, while policy framing is one thing, its implementation and execution is what needs far more attention. The Indian government too has had its share of such hurdles. How has the government dealt with issues like policy paralysis in decision making?

'Policy paralysis' is basically lack of conviction on the part of the government in its own decisions and refusal to take strong decisions wherever required.

However, since the current government was voted with absolute majority the government is strong and decisive and has invested its political capital in its decisions which though unpopular in the short term, are in the interest of the country. Demonetisation and GST are two examples of it. All the pending projects are being personally tackled by the Prime Minister under the 'Pragati' initiative of the Government. Subjective interventions in industrial projects were stopped and clearances like Environmental and Coastal Zone Regulation were made transparent and time-bound.

Implementation and execution is also what differentiates governments. The Government has created a matrix for performance. Not only has the government set very ambitious targets, it has also managed to achieve them, well within the time frame set for them.

NPAs or Non Performing Assets are one of the burning issues in the Indian corporate sector. The Insolvency and Bankruptcy Code of 2016 came as a breather of sorts for the corporates as well as the regulatory bodies. If the resolution of this issue is to be dealt with, what is your take on this?

The Insolvency and Bankruptcy Code (IBC) in 2016, together with the GST are the two biggest reforms of the government.

We must understand how it was like before the enactment of IBC. The defaulters, whether wilful or not, were least bothered about repaying the loans and the

lenders (i.e., Banks and other financial institutions) had to do all the running around to get the money back. The threat of legal action did not work at all and all that the lenders were doing was 'restructuring' of the loan in the absence of any other viable route.

Post IBC, and especially after the amendment which debars promoters and related parties from bidding for an enterprise undergoing insolvency, the defaulters are suddenly running after the lenders to pay the money back. Where the defaults were genuine and the companies are good, we have seen other companies bidding aggressively for the companies facing insolvency. Rest have to go for liquidation. Together with NCLT mechanism and supporting laws of Benami Properties Act and Fugitive Offenders Act, the money is being recovered in a specific time frame.

What according to you is the role of professionals especially Company Secretaries in furthering the objectives of ease of doing business?

I see a very important role for professionals especially Company Secretaries in furthering the objectives of EODB. High levels of 'Corporate Governance' can be ensured only if Company Secretaries do their duties well. We know that protection of minority investors is one of the important parameters in EODB. India has consistently been ranked well on this standard. It is for Companies Secretaries to ensure that we go further up. The transparency in the functioning of the Board and documentation with regards to Minutes and the Agenda papers is also generally the responsibility of the Company Secretaries.

Because Company Secretaries play a pivotal role in functioning of any modern business and look after legal and regulatory compliances, they are in a position to know areas which require government intervention to smoothen things. For example, they may guide the government on the unnecessary forms and submissions that are required under the Companies Act.

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The Company Secretaries while offering their services to take care of the legal and regulatory work allow businesspersons and entrepreneurs to focus on their core areas of work. There is a lot of misgiving about doing business in India and navigating government processes. Company Secretaries can handhold people and also work to dispel this impression.

I expect professionals including Company Secretaries to not only keep themselves fully updated on the changes being brought by the government but also to educate the people about the same.