Easier norms may help Indian firms go global

The proposed Outward Direct Investment (ODI) policy may contain provisions to make it easy for many Indian firms, envisioning ambitious plans to transform themselves into multi-national companies (MNC), to go global and expand.

Approval requirements and other norms would be simplified in a manner that would encourage ‘internationalisation’ of Indian companies. However, sources, privy to the developments, also said the ODI policy was expected to tighten regulations to prevent round-tripping structures, where funds are routed by India-based companies into a newly formed or existing overseas subsidiary and then brought back to India to circumvent regulations here. They said the Reserve Bank of India (RBI) and the Finance Ministry (tax department) were concerned about such structures.

In his 2018-19 Budget speech, Finance Minister Arun Jaitley said, “The government will review existing guidelines and processes and bring out a coherent and integrated ODI policy.” According to India Brand Equity Foundation (IBEF), “Indian firms invest in foreign shores primarily through mergers and acquisition (M&A) transactions. With rising M&A activity, companies will get direct access to newer and more extensive markets, and better technologies, which would enable them to increase their customer base and achieve a global reach.” Currently, the jurisdiction over ODI is mainly with the RBI, and the concerned law here is the Foreign Exchange Management Act.

Export-Import Bank of India (EXIM Bank), in a July 2017 research brief, had said: “... policy measures by way of removing hindrances and providing broad support (such as financial and technological), especially to firms with small foreign investment intensities (small overseas investment positions) can help improve firms’ competitiveness, export earnings and sales.” It added, “This support can also be targeted towards export firms particularly if they are planning for technology-seeking ODI.”

‘Some irritants’

“There are some irritants in the current (ODI) norms,” said Akash Gupt, partner and national leader (regulatory services), PwC India. “For instance, if a holding company is used to make an investment, it may qualify as a core investment company/ non-banking financial company, and therefore, not allowed to invest in non-financial services outside India.” Also, if the overseas business goes bankrupt, approvals are required for depletion in value of more than 25%, said Mr. Gupt.

As per Finance Ministry data, India’s ODI rose 56.1% year-on-year from $6.8 billion in 2014-15 to $10.6 billion in 2015-16, and further up by 39.37% to $14.8 billion in 2016-17. Top ten ODI destination countries in FY’15, FY’16 and FY’17 included Mauritius, Singapore, the U.S., the UAE and the Netherlands.

The IBEF said ODI is being channelled into Mauritius, Singapore, British Virgin Islands, and the Netherlands mainly because these countries provide higher tax benefits. Interestingly, this composition of ODI destination countries more or less mirrored the top sources of foreign direct investment inflows into India in the same period including, Mauritius, Singapore, the U.S., the UAE and the Netherlands.

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