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The Union Cabinet chaired by Prime Minister Shri Narendra Modi has approved the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Bill, 2018 for introduction in the Parliament.

The Bill seeks to achieve the following objectives:

- The Bill brings down the specified value of a commercial dispute to 3 Lakhs from the present one Crore: Therefore, commercial disputes of a reasonable value can be decided by commercial courts. This would bring down the time taken (presently 1445 days) in resolution of commercial disputes of lesser value and thus further improve India's ranking in the Ease of Doing Business.
- The amendment provides for establishment of Commercial Courts at district Judge level for the territories over which respective High Courts have ordinary original civil jurisdiction i.e in the cities of Chennai, Delhi, Kolkata, Mumbai and State of Himachal Pradesh. The State Governments, in such territories may by notification specify such pecuniary value of commercial disputes to be adjudicated at the district level, which shall 'not be less than three lakhs rupees and not more than the pecuniary jurisdiction of the district court. In the jurisdiction of High Courts other than those exercising ordinary original jurisdiction a forum of Appeal in commercial dispute decided by commercial courts below the level of District judge is being provided, in the form of Commercial Appellate Courts to be at district judge level.
- The introduction of the Pre-Institution Mediation process in cases where no urgent, interim relief is contemplated will provide an opportunity to the parties to resolve the commercial disputes outside the ambit of the courts through the authorities constituted under the Legal Services Authorities Act, 1987. will also help in reinforcing investor's confidence in the resolution of commercial disputes.
- Insertion of new section of 21A which enables the Central Government to make rules and procedures for PIM.
- To give prospective effect to the amendment so as not to disturb the authority of the judicial forum presently adjudicating the commercial disputes as per the extant provisions of the Act.

Background:

With the rapid economic development there has been considerable increase in commercial activities and consequent steep rise in number of commercial disputes at domestic and international level. Increase of Foreign Direct Investment (FDI) and overseas commercial transactions have further contributed to a significant increase of commercial disputes.

With a view to address the issue faster resolution of matters relating to commercial disputes and to create a positive image particularly among the foreign investors about the independent and responsive Indian legal system, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 was enacted 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. These five High Courts i.e. the High Courts of Bombay, Delhi, Calcutta, Madras and of Himachal Pradesh, exercise ordinary original civil jurisdiction in regard to territories of cities of Mumbai, Delhi, Kolkata, Chennai and the territory of the State of Himachal Pradesh respectively. In such territories of these High Courts as per proviso to sub-section (1) of section 3 there are no commercial courts at district level and instead Commercial Divisions have been constituted in each of these High Courts. The specified value of such commercial disputes to be adjudicated by the Commercial Courts or the Commercial Division of High Court, as the case may be is presently Rs. one Crore.

Ease of Doing Business is an index of World Bank which inter alia refers to the dispute resolution environment in a country which facilitates the investors in deciding for setting up of and operation of a business. This index has been created by the World Bank Group and since 2002, it has been evaluating almost all the countries of the world. A high ease of doing business ranking means the regulatory environment is more conducive to the starting and operation of the business. On 31st October, 2017, World Bank released its latest annual 'Ease of Doing Business' report for the year 2018 in which India has emerged out as one among top ten improvers and for the first time ever, India has jumped 30 positions and reached 100th ranked country in terms of 'Ease of Doing Business' amongst 190 countries. This manifests that India is fast adopting the best practices in regulatory framework for Ease of Doing Business at all fronts.

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