

Issues with proposed amendment in bill

- **Prolonged litigation process:** It is very easy for the losing party to allege corruption and obtain an automatic stay on enforcement of the arbitral award. Hence, this defeats the very objective of alternate dispute mechanism by drawing parties to Courts and making them prone to prolonged litigation.
- **Floodgates of litigation:** As the amendment in act is in retrospective manner i.e. from 2015, with respect to automatic stay may open floodgates of litigation.
- **Bill does not define Fraud/ Corruption.**
- **Amendment will affect enforcement of contracts** and ultimately affect ease of doing business in India.

Conclusion

India continues to remain a laggard (at 163rd place among 190 countries, according to World Bank's Ease of Doing Business report) when it comes to enforcement of contract. Hence, this bill can be in right in direction to address the issues by facilitate quick enforcement of contracts, easy recovery of monetary claims, etc.

At the same time, Courts will have to be cautious in formulating a test for granting an unconditional stay on the operation of the award.

Therefore, fraud or corruption in the underlying contract could potentially be examined and decided at various stages, before the tribunal is set up as well as before the tribunal itself, prior to the final stage of execution of the award.



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