Amendments to Companies Act

Why in news?

Finance and corporate affairs minister Nirmala Sitharaman announced that the government was moving to decriminalise provisions of the Companies Act.

What are the recent changes?

- The move, which was initially announced on March 4, 2020, is part of a larger effort by the government since 2018.
- A number of offences previously classified as compoundable offences (with imprisonment or fines) have had the imprisonment penalty removed.
- The number of compoundable offences under the Companies Act has come down to 31 from 81 prior to the 2018 amendment to the Act.
- Some of these offences have been omitted altogether.
- Others have been shifted from the purview of the National Company Law Tribunals (NCLT) to being dealt with by Registrar of Companies (RoC).
- The RoC is empowered to decide penalties for these offences.
- The companies can appeal to the Regional Director (RD) of the Ministry of Corporate Affairs (MCA) to appeal or seek modifications.
- The recently decriminalised offences include administrative offences such as -
    i. delays in filing CSR reports (or)
    ii. failure to rectify the register of members in compliance with orders from the NCLT
- The changes also made violations of the Corporate Social Responsibility (CSR) provisions punishable by imprisonment.
- But it did not operationalise the provision after feedback from industry.
- The Companies Act amendment bill 2020 has also proposed to remove criminal liability from CSR provisions.

What is the rationale?

- With the overhaul of Companies Act in 2014, a lot more regulations were introduced for better corporate compliance.
- So, a number of penal provisions with both civil and criminal penalties were introduced.
- Now, as compliance levels improved and there is also the need to boost ease

of doing business, the government is relaxing the criminal provisions.
- The key objective is to remove criminal penalties from all provisions of the Companies Act, except provisions dealing with fraudulent conduct.
- Currently, the changes are aimed at enhancing ease of doing business in the country as part of the government's Covid-19 relief package.

What are the next steps?

- The ministry is expected to make further measures to decriminalise provisions in the companies act particularly those relating to auditors.
- There was an issue with auditors being considered to be colluding with management if any fraud was found.
- The MCA had announced that it would move towards removing criminal liability for issues such as negligence by auditors.
- The easing of provisions of debarment of audit firms is also expected to be taken up in the next phase of decriminalisation of the Companies Act.
- The ministry is however currently in the process of seeking debarment of audit firms Deloitte as well as KPMG affiliate firm BSR & Co. for their alleged role in the IL&FS scam.

Source: Indian Express

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