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Recognition of UAE judgments - An easier path to enforcement in India

On 17 January 2020, the Indian Ministry of Law and Justice issued a notice in the Official Gazette declaring the **UAE to be a reciprocating territory** for the purpose of **Section 44A of the Indian Code of Civil Procedure, 1908**.

This means that civil judgments from a UAE Court defined as *"superior Courts"* will now be **directly enforceable** in India. This is a tremendously important development for all UAE companies and creditors, especially those providing banking and financial services, as creditors based in the UAE will now have a fast tracked route to recover debts and enforce judgments against those who had defaulted on their obligations and fled to India with significant unpaid debts.

Background

Although a bilateral, judicial cooperation treaty existed between the countries, UAE based civil judgment holders had not been able to avail the full benefits of reciprocity that the treaty provided in relation to the execution of judgments in India. This was because of the Indian Central Government's delay in :

Declaring the UAE as a "reciprocating territory" as required by Section 44A of the Indian Code of Civil Procedure, and Specify the list of "superior Courts" within the UAE. Due to this gap in the legislation, holders of UAE civil judgments were previously forced to file fresh lawsuits in Indian courts, either based on their UAE judgment or the original cause of action. This led to high costs, lengthy delays and uncertainty with respect to seeking financial recovery from debtors / borrowers located, or having assets, in India.

Significance of the notice

By publishing this notice in the Official Gazette, the Indian Central Government now recognizes the UAE as a reciprocal territory for the purpose of Section 44A of the Indian Code of Civil Procedure. In addition, the notice also identifies the following courts to be "superior Courts" in the UAE:

1. **Federal Courts**
   - i. the Federal Supreme Court; and
   - ii. the Federal, First Instance and Appeals Courts in the Emirates of :
     - a. Abu Dhabi,
     - b. Sharjah,
     - c. Ajman,
     - d. Umm Al Quwain and
     - e. Fujairah.

2. **Local Courts :**
   - i. Abu Dhabi Judicial Department;
   - ii. the Dubai Courts;
   - iii. Ras Al Khaimah Judicial Department;
   - iv. the Courts of Abu Dhabi Global Markets; and
   - v. the Courts of Dubai International Financial Centre.

Consequently, while there is still a need for clarity as to whether judgments issued prior to the date of this notification will be recognized, we can expect that going forward, most civil judgments from the "superior Courts" (listed above) will now be directly enforceable in Indian district courts. Thus, holders of UAE civil judgments will no longer need to file fresh suits, saving them a significant amount of time and money and adding an increased level of certainty for financial recovery.

Next steps

In light of this development all creditors especially those in the banking and financial sector, should revisit and revise their financial recovery strategy.

Immediate steps to consider are:

i. Forensic Audits should be conducted to identify those parties (e.g., customers) who have defaulted on the repayment of debt facilities;

ii. An Analysis should be made whether these defaulting parties are located in India or whether they may otherwise have assets based in India that are available and unencumbered;

iii. based upon the outcome of this Forensic Audit and Analysis, consideration should be given as to whether proceedings should be initiated against the defaulting party in the courts of the UAE; and

iv. if there are any outstanding judgments against a defaulting party located in India or with assets in India,

v. applications for the enforcement and recognition of such judgments, through the UAE Ministry of Justice, should be made.

Given S K Kalra & Associates is a specialized in International Arbitration & Mediation , Auditing , Forensic Accounting , Banking , Recovery for the past 40 years with strong presence in the region and our close ties with various commercial organizations , Chambers of Commerce , Fraud Recovery Agencies of the Government etc , we are well suited to provide assistance to those who would like to take advantage of this new development

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