Factoring Regulation (Amendment) Bill, 2021

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In news

Parliament has passed the Factoring Regulation (Amendment) Bill, 2021 recently

About the bill

- The bill seeks to amend the Factoring Regulation Act, 2011 to widen the scope of entities which can engage in factoring business.
- The Bill, that will help the micro, small and medium enterprises (MSME) sector in the availability of working capital.
- The Bill will ensure that businesses of MSMEs run more smoothly and that there is a healthier cash flow.
- Many of the clauses of the Bill are based on the UK Sinha committee recommendations.

Key features of the bill

Change in the definitions

Changes in the definitions of the following has been made under the bill:

- **Definition of Receivables:**
    - The Act defines receivables as (all or part of or undivided interest in) the monetary sum which is the right of a person under a contract.
- The Bill amends the definition of receivables to mean any money owed by a debtor to the assignor for toll or for the use of any facility or services.

- **Definition of Assignment:**
- The Act defines assignment to mean transfer (by agreement) of undivided interest of any assignor in any receivable due from the debtor, in favour of the factor.
- The Bill amends the definition to add that such a transfer can be in whole or in part (of the undivided interest in the receivable dues).
- **Definition of Factoring Business:**
  - The Bill defines factoring business as acquisition of receivables of an assignor by assignment for a consideration.
  - The acquisition should be for the purpose of collection of the receivables or for financing against such assignment.

Relaxation in threshold for NBFCs

- Under the Act, no company can engage in factoring business without registering with the Reserve Bank of India (RBI).
- For a non-banking financial company (NBFC) to engage in a factoring business, its financial assets in the factoring business, and income from the factoring business should both be more than 50% (of the gross assets/net income) or more than a threshold as notified by the RBI.
- The Bill removes this threshold for NBFCs to engage in factoring business.

Registration of transactions:

- As per the act,factors are required to register the details of every transaction of assignment of receivables in their favour.
- These details should be recorded with the Central

Registry setup under the SARFAESI Act, 2002 within a period of 30 days.

- The Bill removes the 30 day time period. It states that the time period, manner of registration, and payment fee for late registration may be specified by the regulations.

Trade Receivables Discounting System(TReDS):

- Bill states that where trade receivables are financed through TReDS, the details regarding transactions should be filed with the Central Registry by the concerned TReDS, on behalf of the factor.
- TReDS is an electronic platform for facilitating financing of trade receivables of Micro, Small and Medium Enterprises.

Regulations by RBI:

The Bill empowers RBI to make regulations for:

- The manner of granting registration certificates to a factor
- The manner of filing of transaction details with the Central Registry for transactions done through the TReDS.

Factoring business

- Factoring business is a business where an entity (referred as factor) acquires the receivables of another entity (referred as assignor) for an amount.
- Receivables is the total amount that is owed or yet to be paid by the customers (referred as the debtors) to the assignor for the use of any goods, services or facility.
- Factor can be a bank, a registered non-banking financial company or any company registered under the Companies Act.

- Factoring firms provide working capital to micro, small and medium enterprises – which often have to wait long for payments – by buying their invoices.
- Presently there are seven NBFCs available to MSMEs in the country, but we are increasing the number of NBFCs to 9,000.