



## ERGO

*Analysing developments impacting business*

### GOVERNMENT NOTIFICATION: DECREES PASSED BY COURTS OF UAE CAN NOW BE EXECUTED IN INDIA

22 January 2020

On 17 January 2020, the Central Government of India issued a notification (Notification) declaring the United Arab Emirates (UAE) a 'reciprocating territory' for the purpose of Section 44A of the Code of Civil Procedure 1908 (CPC). In effect, the Notification allows civil decrees / judgments passed by certain specified courts of UAE to be directly executed in India, in a manner akin to a decree of an Indian district court.

The Notification also sets out specific courts of UAE, which are declared as 'superior courts' and consequently, decrees / judgments of these courts may be directly executed in India. These are the: (i) Federal Supreme Court; (ii) Federal, First Instance and Appeals Courts in the Emirates of Abu Dhabi Sharjah, Ajman, Umm Al Quwain and Fujairah; (iii) Abu Dhabi Judicial Department; (iv) Dubai Courts; (v) Ras Al Khaimah Judicial Department; (vi) Courts of Abu Dhabi Global Markets; and (vii) Courts of Dubai International Financial Centre.

#### Enforcement of Foreign Decrees/Judgments in India

Section 13 read with Section 44A of the CPC lays down the law in respect of execution of foreign judgements / decrees in India.

Broadly, there are 2 modes of executing foreign decrees / judgments in India:

- For judgements / decrees passed in non-reciprocating territories, a fresh suit must be filed in the Indian court of competent jurisdiction on the basis of the foreign decree / judgment. This suit is decided in the ordinary course and the decree passed in this fresh suit can be enforced. This can be time consuming and tedious.
- For judgements / decrees passed by specified courts of reciprocating territories, a petition for execution may be directly filed in the appropriate court. For the purpose of the execution, the foreign decree / judgement is treated like a decree of an Indian district court.

#### Effect of the Notification

The Notification adds UAE to the list of 11 other reciprocating territories which notably includes the United Kingdom, Singapore and Hong Kong.

A decree / judgment of a specified UAE court in a civil or commercial matter can now be executed in India with relative ease and a fresh suit need not be filed. This is likely

to result in significantly faster execution of UAE decrees / judgements. Another key advantage is that the limitation period for seeking execution of decrees from reciprocating territories is 12 years, as opposed to 3 years for non-reciprocating territories.

It is important to note that in order to execute a UAE judgement in India, certain key conditions must be fulfilled:

- The foreign judgement / decree must pass the tests of conclusiveness laid down under Section 13 of CPC, i.e., that the judgment / decree in question is (a) passed by a court of competent jurisdiction, (b) compliant with natural justice, (c) not vitiated by fraud, (d) compliant with the principles of international law and Indian law, where applicable, (e) a decision on merits, and (f) not in breach of any Indian law.
- The application for enforcement in India must be filed within 12 years from the date of the decree / judgement passed by the UAE court; and
- This reciprocity arrangement only applies to decrees of foreign courts under which a sum of money is payable. This impliedly excludes declaratory decrees or other non-money decrees such as injunctions or specific performance.

- *Ravitej Chilumuri (Principal Associate) and Akash Karmarkar (Associate)*

For any queries please contact: [editors@khaitanco.com](mailto:editors@khaitanco.com)

*We have updated our [Privacy Policy](#), which provides details of how we process your personal data and apply security measures. We will continue to communicate with you based on the information available with us. You may choose to unsubscribe from our communications at any time by clicking [here](#).*

**For private circulation only**

The contents of this email are for informational purposes only and for the reader's personal non-commercial use. The views expressed are not the professional views of Khaitan & Co and do not constitute legal advice. The contents are intended, but not guaranteed, to be correct, complete, or up to date. Khaitan & Co disclaims all liability to any person for any loss or damage caused by errors or omissions, whether arising from negligence, accident or any other cause.

© 2020 Khaitan & Co. All rights reserved.

**Mumbai**

One Indiabulls Centre, 13<sup>th</sup> Floor  
Tower 1 841, Senapati Bapat Marg  
Mumbai 400 013, India

T: +91 22 6636 5000  
E: [mumbai@khaitanco.com](mailto:mumbai@khaitanco.com)

**New Delhi**

Ashoka Estate, 12th Floor  
24 Barakhamba Road  
New Delhi 110 001, India

T: +91 11 4151 5454  
E: [delhi@khaitanco.com](mailto:delhi@khaitanco.com)

**Bengaluru**

Simal, 2nd Floor  
7/1, Ulsoor Road  
Bengaluru 560 042, India

T: +91 80 4339 7000  
E: [bengaluru@khaitanco.com](mailto:bengaluru@khaitanco.com)

**Kolkata**

Emerald House  
1 B Old Post Office Street  
Kolkata 700 001, India

T: +91 33 2248 7000  
E: [kolkata@khaitanco.com](mailto:kolkata@khaitanco.com)