

‘Address proof’ demands go against PM’s push for work from home

A firm without a traditional office isn't necessarily a shell company. And so, verification of physical address can't be the policy instrument to check if the business is legitimate.

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31 August, 2022

In a recent speech given to the National Labour Conference, Prime Minister Narendra Modi emphasised the importance of flexible workplaces, a work-from-home ecosystem, and flexible working hours. This is a welcome statement for the millions of workers in the gig economy as well as start-ups who power the Indian economy. At the same time, the Ministry of Corporate Affairs has brought in rules to allow for physical verification of firms’ registered offices to weed out inoperative or shell companies. On the one hand we aspire to be a modern economy with a mix of large complex firms and a flexible, work-from-home ecosystem. On the other, we vilify complex financial transactions and impose requirements of a registered physical address that “looks like an office”. This does not bode well for our growth aspirations.

Physical address in a WFH world

Let’s take the example of a person who wants to set up a design company that builds websites. This is not a capital intensive activity – one needs a laptop, good internet connection, and design skills to conceptualise and actually code the website. The person can hire other designers and coders who can equally offer their services from the comfort of their current place of residence, or their neighbourhood coffee shops, or the AirBnB by the beach.

The person setting up such a company will, however, have to furnish an “address proof” to register the company. An obvious one would be of the home in which the person lives, or in which their parents live.

In a service economy, where the saleable commodity is human capital, and where the physical tools of trade are a laptop and a router for the internet, the notion of a physical office address should be irrelevant. Why can't a post office box serve as the office address? Many great start-ups in the world began their journey in a garage. It is highly unlikely that these founders spent time obtaining and filing no objection certificates (NOCs) from their families to use the garage. If we want to encourage flexible workplaces, the idea of a physical address needs to be revisited. Office space is expensive; insisting on it will ensure that most entrepreneurs stop before they can even dream of starting up.

Verifying the existence of companies

The central government recently amended the Companies Act 2013, to allow the Registrar of Companies (RoC) to do a physical verification of a company's registered office if it believes that the company is not carrying out its business in a proper manner. The verification of physical addresses seems to be driven by the government's view that a) a company that is inoperative is a *shell* company, and b) a shell company is a channel for generating black money.

But if we agree that economic activity is decoupled from a physical address, then the verification of physical addresses cannot be the policy instrument for confirming either the existence of a business or its legitimacy. It is entirely possible that the “business” is being carried out far away from one's registered address.

It is also unclear what manner is considered proper. For example, the idea that an office must have a desk and a chair, and where

customers can visit seems quaint. Perhaps the founders and their employees sit on the floor or on the beds in their respective homes and type away. Is the government going to decide the appropriate physical work environment in one's home office?

Companies will now have to deal with the quality of due process followed by the RoC (or the local police) in conducting these verification checks. As we have seen in different instances, street-level officials are also motivated by incentives and pressures faced by them, and the friction of dealing with the State only adds to the (un)ease of doing business.

Dealing with shell companies

At heart, the Indian State seems to be uncomfortable with what it sees as a “shell” company. It is true that a shell company is one that exists on paper, has no office, and does not carry out any economic activity. However, the reverse is not necessarily true.

A company that does not have a traditional office, and does not generate business for a few years need not be a shell company. This is especially true in a world where business is conducted over the internet and does not require a physical space distinct from one's home. Perhaps it is just a company that has not been able to generate business, or has chosen to go dormant for a few years, or just messed up and delayed filing its returns. Perhaps it is difficult to deregister a firm, and promoters prefer to keep the company dormant.

More importantly, a shell company by itself is not illegal. Large corporations often use such companies for the staging of hostile takeovers, getting access to international markets, or safeguarding assets from lawsuits. Shell companies can be an effective instrument for carrying out financial transactions.

We need to urgently re-orient our notions of what constitutes a company, find less intrusive ways to differentiate between legal and illegal financial transactions if we are to realise our dreams of a several trillion dollar economy. A high-income economy is one in which business arrangements are complex, office space is fungible, and shell companies can be perfectly legitimate building blocks of complex production arrangements.

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