Employer of Record (EOR) An Emerging Opportunity for The Indian IT/ITES Sector

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Abstract

The Indian Information Technology/Information Technology enabled Services (IT/ITeS) companies operate in a minimum of fifteen to twenty countries with the Tier 1 entities going beyond the forty countries mark. It becomes pertinent that, creation of legal entities viz., Branches, Subsidiaries, partnership firms, firms with teaming agreements become the order of the day to deliver business in a compliant way. The question, the paper raises is, what about those countries and emerging markets where the companies do not have legal entities (permanent entities-PEs)? How does one operate and ensure delivery of services for clients either in the client location or associates being in a third-party location? Can near shore become an important facet of delivery in the global delivery model (GDM) that is being practiced? Though the Tier 1 entities do manage to ensure delivery, the Tier 2 and Tier 3 entities have their own issues in ensuring delivery of the service offerings. A total of 108 Human Resources and Compliance related employees of organizations have been contacted to ensure the understanding. It is here that the facet of Employer of Record (EoR) plays a dynamic role and ensures compliance of the associates who travel to a location where the Indian IT/ITeS organization does not have an entity to deliver the services. EoRs with a global footprint can send the associates of an entity to different countries where they do not have PEs and ensure delivery of the services in a compliant manner. The research paper is a study of how the Indian IT/ITeS sector has managed to get EoRs on board and ensure services a rendered in remote locations and countries where they get a one-off or short-term projects to deliver. True to its nomenclature, an EoR takes on a company's human resources responsibilities and onboards, pays, and manages employees while the IT/ITeS organizations maintain and control the day-to-day operations.

Keywords: EoR, Permanent Entity, Associates/employees, remote location

1. Introduction

Information Technology (IT) and Information Technology enabled Services (ITeS) organizations of India have gone to various developed countries and emerging economy regions to ensure business and provide IT solutions to various businesses. The facet of Global Delivery Model (GDM) has ensured an outreach of the Indian IT companies to create offshore companies in overseas to ensure compliance and get to the legalities without any hindrance. Acharya (2021) maintains that, an offshore company is registered in a different country from where its investors and founders reside. The offshore company follows the regulations, laws, and tax authority of the foreign country in which it is registered and not where its founders reside. The company owners prefer to establish an off shore company in foreign countries as it receives many facilities and legal benefits from that country. India has more than 1,70,000 IT entities registered (Easy Leadz, n.d.), of which more than 3000 are members of National

Association of Software companies (NASSCOM) (https://nasscom.in) who constitute 90% of the industry revenue (NASSCOM, n.d.). NASSCOM is the premier trade body and chamber of commerce of the Tech industry in India and includes Indian and multinational organisations that have a presence in India. [1-5]

2. Employer of Record (EOR)

These Tech Industry players will go all out to ensure business in developed Nations, in emerging markets and ensure proliferation of IT and the service/solution offerings. A senior compliance associate, with an IT company who wanted to remain anonymous mentions that, "these days, one finds, IT companies reaching out to different geographies/countries to get to new business across sectors and domains. It is in this outreach, that most of the companies get short-term projects at times for a duration of six to nine-months. Hence, establishing a permanent entity, in the form of a branch or even subsidiary will take time, and once the project is accomplished if there is no pipeline business, these entities will become an issue on the resources of the IT organization." In such a scenario, Ram Varma a Senior Manager with Mueen Human Resources (www.mueen.com.sa) in the Kingdom of Saudi Arabia mentions that, "if the organization gets a project, whatever the duration, either through a bid, or through an acquisition, and does not have an entity to execute the work, should team up an Employer of Record (EoR) who will provide for the umbrella services of Employment Visa Sponsorship, Payroll and statutory requirements, which will enable the employees to execute the project without having to focus on a permanent entity (Varma, 2022)." If one were to look at data of the Indian Tech Companies and the number of countries they operate in, the outreach has been phenomenal: Table 1 provides the inputs about how Indian IT Companies have reached out to geographies and ensured their businesses have proliferated to various geographies of the world. However, there are smaller Tech Players, who have a strong IT portfolio and execute projects with all strength, but have expanded to a few countries. Prolifics (https://prolifics.com/) a Hyderbad based

organization, besides, India, has operational facilities in USA, Canada, UK, and Germany. Satya Datla, Senior System Administrator with Prolifics mentions, "we have been strong in our operations in the four countries other than India that we operate in. However, as business demands, if there is a need the organization will surely look for avenues to venture to other countries as well; but it will have to be a leadership decision, a decision of strategy that must be taken for ensuring the business (Datla, 2023)." When the researchers asked Satya about the EoR mechanism and explained to him about the efficacy, he mentioned, "EoR will surely be an advantage for short-term projects, which will ensure understanding of the customers and if need be, at a later stage ensure the establishment of a permanent entity in the country where the company is not represented." However, D. Kuppusamy a HRSS (HR Shared Services) associate with Wipro, was very forthcoming to mention, that, "if there is an opportunity to empanel EoRs in countries where the organization is not represented, then the HRSS would work with the Project Management Office (PMO) and the Compliance Department to ensure resource mobilisation to the project where there is no permanent entity. Off course, the arrangement will surely be a short-term engagement and beyond six or nine months (Kuppusamy, 2023)." [6-10]

Table 1 Top Six Indian IT Companies and The Number of Countries of Operation

	IT Company	Number of Countries
1	TCS	55 (TCS, n.d.)
2	Infosys	50 (Infosys, 2023)
3	Wipro	66 (Wipro, 2023)
4	HCL	60 (HCL, n.d.)
5	Tech Mahindra	90 (Tech Mahindra, n.d.)
6	L&T Infotech (LTI)	30 LTI Mindtree, n.d.)

2.1 EOR, The Schemata and Its Growth

Ashish Mehta of Atlas (https://www.atlashxm.com) a EoR company operating in 160 countries, mentions,

"that EoR as a Strategy helps small and large companies in ensuring Global Expansion with the EoR focussing on i) local employment and tax laws that need to be understood and complied with; ii) Global Payment implications and iii) the time and cost of Global Expansion (Atlas, 2023)." Mufaddal Zainal of Atlas further mentions that, "any organization should ensure an understanding of the a) Cultural Factors, b) the legal and regulatory facets, c) the necessary infrastructure, d) Availability of Talent pool and e) the Financial Considerations as one sets up the permanent entity; but then when one ties up with an EoR, here in case, Atlas, offers a service that lets companies manage their international workforce without setting up a legal presence in the country/geography (Zainal, 2023)." Figure 1 shows Grab from The Webinar, With The Focus On the Work of The EOR. [11-13]

Figure 1 Grab from The Webinar, With The Focus On the Work of The EOR

Rajendra Katare, Associate Director with Happiest Minds (https://www.happiestminds.com) who engages in Global Mobility and Resource Management, mentions that, "recently we have signed up with an EoR in countries where we do not have representation and we are confident that we can support and add value to our customers in these locations in a seamless and compliant manner (Katare, 2023)." Rajendra further adds that, "if the business sees an increase trend, then we have an internal agreement that we will initiate the procedures for a permanent entity and ensure compliance and even ramp up the associate strength as required."

2.2 EOR and Benefits

Joseph (2021) specifies for the benefits of EoR in an enigmatic way and states that the following are five benefits that an organization:

- EoRs help in removal of Global market entry barriers,
- Complete compliance with the local laws of the country in question,
- Saves times in ramping up associates for the projects,
- EoRs help to mitigate any labour related risks and
- Reduction in costs of setting up global offices (Branch and Subsidiary)

A Human Resources associates, from a Tier-2 company based in Bangalore, who was not officially permitted to speak mentions that, they had set up three EoR based projects in the African Continent, and it was a seamless effort, as the task was done in three weeks after the identification of the associates who were to man the projects in question. Ram Varma of Mueen, Saudi Arabia states that, "the time saving is the biggest advantage as one works with the EoRs." Ram Varma even compares and mentions, "the uniqueness between EoR and Staffing agencies who had been operating in countries and providing services, that today are being phased out for a better EoR experience." For the reader to understand the difference between EoR and Staffing Agency the following Table 2 will add value to the understanding. [14-16]

2.3 Objectives of the Research Study

EOR for the Indian IT/ITeS establishment has been relatively a new phenomenon. By undertaking the study, the researchers are making efforts to establish whether the Indian systems can understand the scenario and work along and ensure success for themselves.

2.4 Methods

The study was conducted by using semi structure questionnaire, which was shared with the respondents via digital platform to employees in the network of the researchers. Two follow-up requests were also sent to ensure the filling of the questionnaire through

the Leaders involved for the organizations and the researchers.

2.5 Sample

A perspective was sought through a digital questionnaire which has been responded to by 108 HR associates/employees from Tier 1 and Tier 2 IT/ITeS organizations from a total of 249 associates/employees to whom the survey questionnaire with ten questions which the respondents had to provide with multiple answers; was sent from 1st February 2023 to 1st May 2023. Of the 249 prospective respondents, a total of 18 questionnaires were returned as the HR associates had left the organizations. Out of the 231, a total of 108 responded and the data was collated and analyzed. Of the 108, 24 responses came from HR associates of Tier 1 entities and 84 from Tier 2 and other entities. Another fact that the reader should know is that, of the 108, a total of 43 had used the services of an EoR and 65 were in the process of using the services of an EoR in the next one or two quarters.

Table 2 Comparison Between EOR and Staffing Agency

	EOR	Staffing Agency (Professional Employer Organization – PEO)
Focus (Joseph, 2021)	Handles documentation, payroll, and tax paper submission.	Handles recruitment, supplies the workforce for seasonal activities or contract projects. The main goal of a staffing agency is to scout talent for long-term or short-term projects.
Benefits (Joseph, 2021)	Hiring an EoR gives business owners the compliance mechanism.	Reduces the amount of time needed to close a job opening and helps find the best talent available on the local market.
Responsibilities (Joseph, 2021)	# helps in workplace safety documentation and compliance # accepting responsibility for legal and financial decisions # Handling employee termination # Representing the main office as a registered entity abroad	# finding ways to close the job openings in the fastest way possible # screening and interviewing talent # onboarding and manging teammates with the company
Transfer of employees (Atlas, 2023)	Easy to transfer employees from EoR to the entity of Corporate as and when established. The movement can be accomplished in two to four weeks. The reverse i.e., from entity (if being shut or kept in suspended animation) to EoR is also feasible and will be done quickly.	Takes longer than three to four months.

2.6 Tool

The semi structured questionnaire consists of ten questions which were shared with digital questionnaire link to collect data from the HR IT/ITeS employees/associates.

3. Results, Discussion and Conclusions

The data collected from the HR IT/ITeS sector have been analysed and tabulated, which will help the reader to assuage the issues faced by HR and way HR

teams in IT/ITeS organizations should perform in the near and far future along with the PMOs. The researchers would like to confirm that EoR acceptance in an organization was mandated by HRSS and the PMO delivery ecosystem, with Leadership being provided by the Secretarial Team and the audits teams to ensure the facets of compliance. Considering the infancy of the subject of EoR, HR associates play a dynamic role in ensuring identification, as the facet of recruitment, acquisition of employees, talent management, compensation, and benefits all come into the repertoire. This must be done in tandem with the Delivery Teams and PMO with the compliance teams ensuring that nothing goes amiss. The HRs of Tier 1 and 2 responded well and ensured a deep-dive understanding of EoR and the way HR would make efforts to manage. Just in Time (JIT) management of ensuring resource mobilization and management, which at times the HR must do was highlighted both by the Tier 1 and 2 associates. 19 HR associates of Tier 1 and 67 of Tier 2 agreed that EoRs have come in handy whilst they delivered in geographies and all the resources had to be onboarded within the shortest possible time. Surprisingly a planned approach was focused on only by 12 and 55 HR associates

respectively. This clearly means, despite the presence of EoRs, a planned approach is lacking, and the facet of readiness of resources to be onboarded must be evaluated well. The facet of end-to-end HR services was agreed upon by 23 and 77 associates respectively, which means that the EoR framework will be used by the Indian IT/ITeS entities in the future for resource management. But the surprise came when 22 of Tier 1 and 43 of Tier 2 agreed and mentioned that the employees were happy with the EoRs and their service offerings. But the numbers in Tier 2 need to be tread with caution as a good number of them are still in the process of utilizing the service offerings of the EoRs. 23 for Tier 1 and 61 for Tier 2 agreed and stated that the optimum number of resources through EoR should be around 50 and not more. A HR/mobility associate of Infosys, who wanted to remain anonymous maintained that, if the number goes beyond 50 then is only of academic interest to continue with the EoR, the organization will support in opening upon of an entity and managing the resources and clients through the entity, rather than through a vendor viz., the EoR. Figure 2 HR Views on EOR from Tier 1 and Tier 2 Organizations.
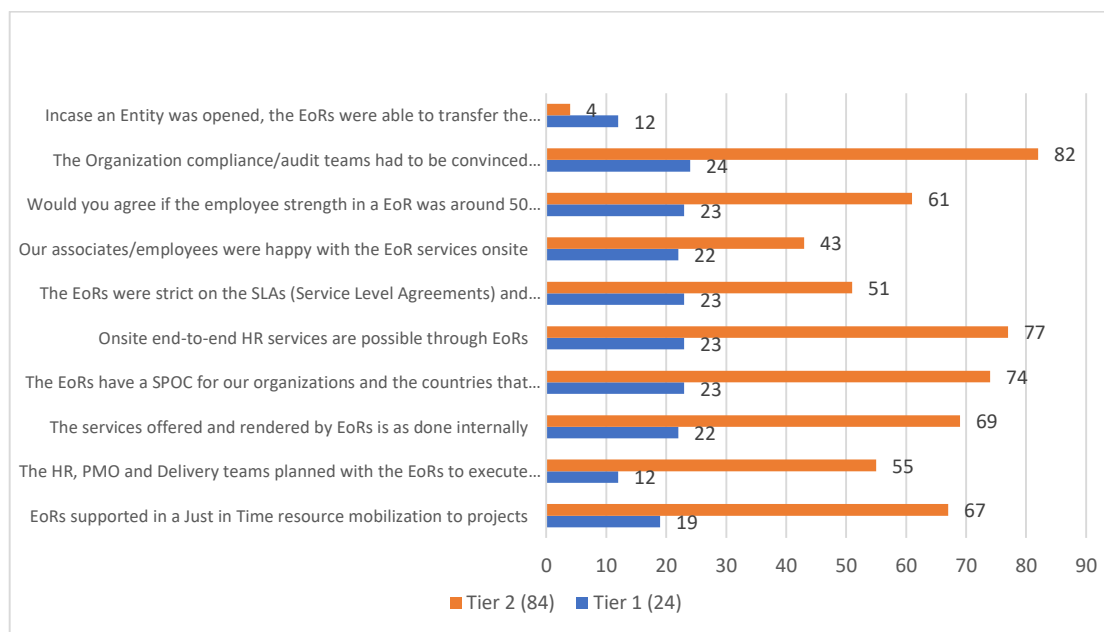

Figure 2 HR Views on EOR from Tier 1 and Tier 2 Organizations

Table 3 HR Views On EOR from Tier 1 And Tier 2 Organizations

	Tier 1 (24)	Tier 2 (84)
EoRs supported in a Just in Time resource mobilization to projects	19	67
The HR, PMO and Delivery teams planned with the EoRs to execute the movement of employees	12	55
The services offered and rendered by EoRs is as done internally	22	69
The EoRs have a SPOC for our organizations and the countries that we engage in	23	74
Onsite end-to-end HR services are possible through EoRs	23	77
The EoRs were strict on the SLAs (Service Level Agreements) and ensured the same	23	51
Our associates/employees were happy with the EoR services onsite	22	43
Would you agree if the employee strength in a EoR was around 50 was optimal	23	61
The Organization compliance/audit teams had to be convinced about EoRs	24	82
In case an Entity was opened, the EoRs were able to transfer the employees to our organization seamlessly	12	4

Conclusion

EoR have provided a new opportunity for the Indian IT/ITeS entities to ensure managing of projects in geographies where they do not have legal entities and ensure support to the customers, at least on a short-term basis, i.e., till the entity will come up in the country where there is EoR Support. Some of the HRs interviewed even probed the idea of having a mix of employees, viz., some parked with the EoR and some with the entity of the organization concerned. But then on EoR associate of a European firm, was not for this scenario as they would create a labour related issue with the authorities in the country. With the coming of EoR, it has been seen that the PMO, the delivery ecosystem is willing to work in tandem with the HR teams and ensure resource management. With the strengthening of the EoR construct, the IT/ITeS entities are bound to use them and ensure cost arbitrage in regards to permanent entities, but one needs to see, if the countries in question would allow for corporates to function without permanent entities considering that it is question of compliance.

Additional Information

Credit authorship contribution statement All the authors have contributed to the research paper as a team. The authors have discussed thread bare all the aspects that were collated and have been placed for the readers, the publishers to get to the point of EoR and the Indian IT/ITeS administration. The facets of curating the data collated, the aspects of analysis, presentation, have been discussed in its totality, which has ensured a paper of this nature.

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