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COVID-19 Assistance in the time of need

The impact of the Coronavirus (COVID-19) epidemic on trade and business for India as per the latest report of the United Nations is estimated to be over \$400 million and counting as the country figures among the top 15 economies in the world, most affected as a result of slowdown of manufacturing operation in the Country. As the cases in India are surging, the Government of India went to issue a notification for nationwide lockdown in order to contain the spread of the outbreak.

In this challenging times, industries and companies across the world is searching for the correct contingency plans and business continuity plans. Maheshwari and Co strives to provide up-to date insights on the changing business environment across a range of topics.

The Ministry of Finance vide its Office Memorandum No. F.18/4/2020-PPD dated 19 February 2020 clarified as hereunder:

“2. A doubt has arisen if the disruption of the supply chains due to spread of corona virus in China or any other country will be covered in the Force Majeure Clause (FMC). In this regard it is clarified that it should be considered as a case of natural calamity and FMC may be invoked, wherever considered appropriate, following the due procedure as above.”

The above memorandum issued by the government is an attempt to address the issue as to whether the outbreak of the current pandemic would adversely affect performance by the parties under their respective agreement. However, it is to be noted that the memorandum is restricted in its applicability to the contracts referred to therein.

The Supreme Court (the apex court of India) pronounced an order under Article 142 of the Constitution of India extending the period of limitation with effect from 15 March 2020 till further order(s) are passed by the SC. The extension will apply to all legal proceedings including filing of petitions / applications / suits / appeals, in any court / tribunal / forum in India, irrespective of the limitation prescribed under the general law or special law (either central or state), whether condonable or not.

The Ministry of Corporate Affairs(MCA) has also announced various relaxations for the Companies and Limited Liability Partnerships (LLP). MCA has clarified among



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other clarifications that the companies can spend their obligatory Corporate Social Responsibility amounts on the assistance to effected people due to the outbreak.

MCA in its initiative has further announced:

1. Waiver of Additional filing fees: The government has announced a moratorium with effect from 1 April 2020 to 30 September 2020 on levying any late/ additional fees upon filings of any returns, forms, statements, document etc. by companies or LLPs on the MCA portal irrespective of the due date of such filings. The same will lower the burden on the entities.

2. Meetings: As per the Companies Act, a company is required to hold a minimum of 4 board meetings every year with a maximum time gap of 120 days between two consecutive board meetings. The MCA has relaxed this time gap of 120 days by 60 additional days thereby increasing the interval limit between two consecutive board meetings to a maximum of 180 days which is available for the next two quarters i.e. up to 30 September 2020. Independent directors being not able to hold such meetings physically before 31 March 2020. In these circumstances, the MCA has also clarified that if the Independent Directors are not able to hold meeting during the financial year 2019-20, the same will not be termed as non-compliance of the statutory provisions however it is encouraged to share their views amongst themselves through telephone, email or any other mode of communication, as they may deem fit.

4. Auditor's Report and deposit provisions: The MCA has also postponed the applicability of newly announced CARO 2020 to the financial year 2020-21. The MCA has also extended the due date for deposit into the deposit repayment reserve to 30 June 2020.

6. Declaration of Commencement of Business: A newly established company, is required to file declaration for commencement of new business within 6 months of its incorporation however the MCA has extended the timeline for such compliance from 6 months to 1 year from the date of incorporation.



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7. Resident Status of Director: Under the Act, every company is required to have at least one resident Indian director staying for a period of minimum 182 days during a financial year. The same shall be not applicable for financial year 2019-20.

The MCA is expected to issue necessary circulars and notifications regarding the above relaxations in due course.

Indirect Taxes

The Hon'ble Finance Minister announced several relaxations in the timelines for compliances for small taxpayers and other relief measures. The major announcements were:

Monthly Returns: Taxpayers having an aggregate turnover of less than INR 5 crores have been permitted to file GSTR-3B due in the months of March, April and May 2020 by 30 June 2020 without any interest or late fee. Other taxpayers are allowed a grace period of 15 days after which a reduced interest rate of 9 % p.a. would be payable, without any late fee.

Composition scheme: The deadline to opt for the composition scheme for FY 2020-21 and the due date of filing returns and payment of tax for composition dealers for the quarter ending 31 March 2020 have also been extended to the end of June 2020.

Annual return: Due date for furnishing annual return for FY 2018-19 has been extended up to 30 June 2020.

Other compliances: Time limit for all compliances (including issuance of notices, orders, furnishing of returns, statements, etc.) under goods and services tax and customs where the existing time limit is expiring between 20 March 2020 and 29 June 2020, has been extended up to 30 June 2020.

Import/ Export and Customs clearance: Import/ export of goods, related port services and allied activities declared as 'essential services' and would be operational 24 X 7.

Sanitary Permits: All Sanitary Permits (SIPs) for import of SPF Shrimp Broodstock and other agriculture inputs expiring between 1 March 2020 to 15 April 2020 have been extended by 3 months.



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Export: Export of sanitizers and ventilators of all sorts has been prohibited. Additionally, export of Hydroxychloroquine and its formulations has been prohibited, except in certain specified situation.

We understand that the recent pandemic will largely affect the world economy and in this challenging times, wherein Companies are having issues with relation to labour laws, their running agreements, legal advise is very crucial. We at Maheshwari and Co are happy to assist on any of the issues in relation to the operation in India. For any further questions, please write to jyotsna@maheshwariandco.com.