L&L PARTNERS
Law Offices

COVID-19

Legal Update

Contents

Introduction

This note outlines and discusses various aspects of the legal and regulatory framework and its impact on businesses in light of the COVID-19 pandemic. Specifically, the note discusses the impact and implications of COVID-19 on various aspects such as (a) commercial contracts from the perspective of principles of '*force majeure*' and 'frustration'; and (b) implications from the standpoint of the Epidemic Diseases Act, 1897 ("**Epidemic Act**"), the Disaster Management Act, 2005 ("**DM Act**") and the Civil Defence Act, 1968 ("**Defence Act**"). Further, the annexure to the note also highlights key measures undertaken by the Government, regulatory authorities and the courts in ensuring public safety as well as minimising and preventing the spread of COVID-19.

Impact on Commercial Contracts

The widespread impact of COVID-19 on public health and safety, and the resultant impact on businesses and the economy as a whole has raised uncertainty and questions over performance of prevailing and ongoing contractual obligations to be fulfilled by the parties to such arrangements. In this backdrop, seldom invoked principles of contract law such as '*force majeure*', and 'frustration' have now assumed a great degree of relevance. Our analysis assumes that contracts are governed by Indian law. For contracts governed by foreign laws but to be performed in India, we will need to analyse this based on the applicable law of the relevant jurisdiction.

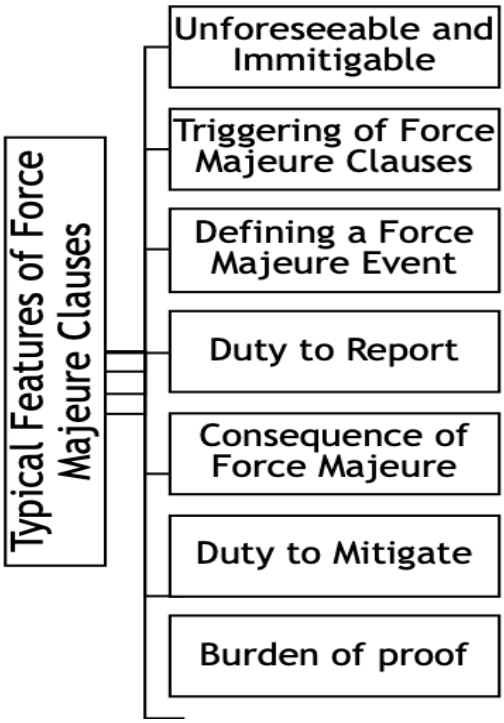
Force Majeure and Analysis *vis-à-vis* COVID-19

'Force majeure' is a concept derived from civil law. It is a French term, meaning 'superior force'. It is a codified provision of law in jurisdictions such as France and Germany. As the translation of the term implies, *force majeure* clauses generally permit the parties to a contract to delay or avoid performance of such contract on the grounds that they are prevented from doing so due to matters outside of their control.

In India, *force majeure* is not defined expressly under any statute and is usually incorporated within contracts, so as to provide flexibility to the parties to a contract to avoid liability for their non-compliance with contractual obligations on account of events that are beyond their control. In the absence of a statutory definition of this clause, courts in India have generally resorted to principles of contractual interpretation to determine whether a particular event would be construed as a *force majeure* event, keeping in mind the specific language used in the contract.

The likelihood of the COVID-19 situation constituting *force majeure* under most typical *force majeure* clauses would be high assuming the COVID-19 situation does actually prevent the affected party from performance of a contract and such prevention could not have been mitigated. Nationwide lockdowns are unheard of in non-wartime situations and it would not be possible to argue that such events are foreseeable to the average contracting party. Even in respect of tightly worded *force majeure* clauses, the COVID-19 situation may be interpreted as a *force majeure* event under broader heads, such as 'acts of God' or 'natural calamities'.

A brief matrix of the features of a typical *force majeure* clause is provided below.



Apart from the definition of *force majeure* events, a few other crucial elements of *force majeure* clauses are as follows:

- The event which purports to constitute a *force majeure* event should be **unforeseen**.
- *Force majeure* clauses usually require a party to undertake 'reasonable' efforts or 'best' efforts to avoid or mitigate the impact of the *force majeure* event.
- *Force majeure* is likely only to be granted if such duty to mitigate is fulfilled by the relevant party to the extent practicable.
- The affected party, claiming relief under *force majeure*, will have the burden of proof to show that the *force majeure* event has affected such party's performance of the contract.

Even though the COVID-19 situation seems likely to affect the performance of many contracts, it should not be treated as an overarching excuse not to perform, especially where its effects cannot be clearly shown to affect the ability to perform.

The consequences of invoking *force majeure* in the performance of a contract are likely to be as follows:

- If the *force majeure* event is temporary in nature, invoking a *force majeure* clause would generally result in the suspension of the obligation to perform a contract for the duration of the *force majeure* event
- Invoking a *force majeure* clause could result in the right to terminate a contract if the *force majeure* event lasts longer than a particular period.
- Parties may be excused altogether from performing obligations, if the effect of the *force majeure* event is permanent.
- Parties acting in good faith could very well renegotiate contracts on mutual terms that enable some nature of performance in the context of a *force majeure* event.

Further, it is worthwhile to note that the Ministry of New & Renewable Energy (**"MNRE"**) has directed all renewable energy implementing agencies of the MNRE to treat delay on account of disruption of the supply chain due to the spread of COVID-19 in China and other countries as a *force majeure* event and has granted an extension of time for the completion of projects to project developers, subject to the Solar Energy Corporation of India / National Thermal Power Corporation / other implementing agencies being satisfied that the delay genuinely occurred due to disruptions in supply chains caused on account of the spread of COVID-19 in China and other countries. The Ministry of Finance, Government of India has also clarified that the disruption of supply chains due to the spread of COVID-19 in China or any other country should be considered as a 'natural calamity' and *force majeure* clauses may be invoked under the Manual for Procurement of Goods, 2017. While this notification appears to apply only in the context of the Manual for Procurement of Goods, 2017 (which relates to public procurement of goods by Government organizations), it may hold some persuasive value in terms of the interpretation of contracts by Indian courts going forward, in instances where *force majeure* clauses specify 'natural calamities' as a *force majeure* event.

Frustration of Contract and Analysis *vis-à-vis* COVID-19

The absence of a *force majeure* clause does not entail that the parties do not have legal relief available to them. The concept of 'frustration of contract' under Section 56 of the Indian Contract Act, 1872, becomes available to parties, who may claim that the performance of a contract is rendered impossible or unlawful. This would render the contract itself void.

The principle of frustration as grounds to avoid the performance of obligations under a contract may be used only in situations where the relevant event or change in circumstances has completely upset the very foundation upon which the parties had entered into contract (*Satyabrata Ghosh* v. *Mugneeram Bangur*, 1954 SCR 310). Further, the principle of frustration is subject to a higher threshold of scrutiny than *force majeure* clauses and difficulty or delay in performance where timely performance is not an essence of contract (rather than outright impossibility of performance) may not be sufficient to raise a claim of frustration of contract.

In the context of COVID-19, wherein the relevant contract does not provide for a '*force majeure*' clause, to be able to successfully argue that a particular contract has been frustrated *de hors* the terms of the contract, the relevant party would need to establish that the current situation has resulted in upsetting the very foundation upon which the parties entered into the contract. It appears that the burden of proof to establish such 'impossibility' is high, especially given that Indian courts have ruled that it may not be a sufficient basis to trigger Section 56 of the Contract Act merely because an uncontemplated turn of events renders the performance of a contract onerous or more expensive. In this situation, parties may not be excused from performing their obligations under a contract.

In so far as the principle of frustration is concerned, the provisions of the Epidemic Act and regulations / orders issued thereunder are also of relevance. As mentioned above, various measures have been undertaken and directions have been issued by several Government authorities in respect of COVID-19. While the issue of frustration on account of directions / orders issued under the Epidemic Act has not been judicially examined yet and a determination would also need to be made on a case-to-case basis, in geographical regions where a party to a contract can establish that it is being prevented from performing its obligations under the contract due to the lock down imposed by the Government and other restrictions that the Government is enabled to promulgate under the provisions of the Epidemic Act, DM Act and Defence Act and / or regulations / directions issued thereunder, and timely performance within the lock down period, an argument may be made that performance of such contract has been frustrated. That said, the likelihood of a successful claim would also depend upon the nature of directions issued (along with the time period of their applicability) and the nature of obligations of the parties to the contract. Of course, the parties would still need to establish that directions / measures were such that they have upset the very foundation of the contract and accordingly, the contract cannot be performed. It should be kept in mind that the threshold under Section 56 is high. Mere hardship, increased expense, inconvenience or material loss doesn't necessarily render a contract frustrated and the ability of a party to perform the contract under the new circumstances will first need to be assessed. While claiming frustration of contract, the relevant party will need to be mindful that its consequence is making the contract void, a consequence a party may not want.

If a contract provides time is of essence and an event in the nature of *force majeure* prevents performance for an indefinite period, it may qualify as frustration. It is noteworthy that where time is of the essence in a contract, then in the absence of frustration or the protection of a *force majeure* clause, contract is still voidable, at beneficiary's discretion, under Section 55 of the Indian Contract Act, 1872, if the contract is not performed within the stipulated time.

Further, where the COVID-19 situation is covered as part of a *force majeure* clause, only those consequences envisaged under the *force majeure* clause would need to be followed and the doctrine of frustration of contract under Section 56 of would not be applicable. In other words, the applicability of Section 56 can only be raised in the absence of a *force majeure* clause.

Way Forward

In the analysis above, the following situations have been dealt with: (a) where contracts have express *force majeure* clauses; and (b) where contracts do not have *force majeure* clauses but the performance of the entire contract has become impossible or impractical such that the contract would become void under Section 56 of the Indian Contract Act. However, many contracting parties may also find themselves in a situation where (i) contracts do not include a *force majeure* clause; (ii) Section 56 of the Contract Act, as currently interpreted by the Indian Courts is not applicable or the affected party prefers not to invoke Section 56 (to prevent the contract from becoming void in its entirety); and (iii) mutual negotiations amongst parties have failed. Given that the COVID-19 pandemic has led to situations like lock-downs and restrictions on deduction or reduction of wages and brought most supply chains and most economic activities to a grinding halt, which is unprecedented and which no average contracting party could have foreseen, it would not be surprising if any one or more of the following takes place in times to come:

(a) The Government may bring in a law to excuse the performance of contracts during the duration of the lock-down, for certain classes of contracts. In the last part of this update, we have covered ways in which Government could take pro-active steps. The Government has already taken many steps as a response to the COVID-19 situation that are unprecedented, such as the extension of time for filings, increasing thresholds of debt for filing an application under the Insolvency and Bankruptcy Code, directing industries, shops and establishments to not deduct wages, directing lessors to not evict workers during the lock-down period etc. Details of the aforesaid are contained in the Annexure.

(b) The Courts in India may evolve jurisprudence to address the current situation such that contracting parties are not held to be in breach of their contracts and be exposed to liabilities for non-performance during the lock-down period for reasons outside their control. Some of the likely ways in which jurisprudence may evolve are as follows:

- The Courts may interpret Section 56 of the Contract Act in a way so as to excuse the performance of certain obligations that are not possible to perform due to the COVID-19 situation, without going so far as to declare the whole contract void. Although the doctrine of partial frustration of contract is not well developed under Indian law or even under English law, given this situation and given that a contract is a bundle of reciprocal rights and obligations, this may be one way in which Courts interpret provisions relating to frustration of contracts.
- The Courts may also read in the excusal of performance of obligations during the lockdown period as an implied term of the contract. In doing so, courts may expand the scope of the tests of business efficacy and find such implied terms to be reasonable and equitable. Courts may factor in that average contracting parties could not have foreseen the occurrence of such an event and therefore, could not have intended that a party would be obligated to perform a contract (or be held liable for non-performance thereof) despite its inability to perform on account of the COVID-19 situation.
- The Courts may also read in the excusal of performance of obligations during the lock down period, as an implied term of the contract, while expanding the tests of business efficacy and fairness and equity that are part of the tests for reading implied terms in contracts. Courts may factor in that average contracting parties could not have foreseen such an event and have reached the agreement that despite a party not being able to perform due to such an unprecedented event, it should still be obligated to perform or be liable for breach of contract in the alternative.
- New jurisprudence based on fairness and equity could be developed to provide relief to contracting parties, and the Supreme Court may use its wide powers under Article 142 of the Constitution of India. It should be noted that the Supreme Court has already used this power recently, to extend the statutory limitation period for filing appeals.

Regulatory Framework to deal with COVID 19

As noted above, COVID-19 is a highly infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), with the potential to severely impact the health and safety of the country. In these circumstances, the Central Government, State Governments and local authorities in India, in exercise of their powers, have undertaken various measures and steps to minimize the spread of virus and to address present situation. These measures are covered in the Annexures below.

The section seeks to critically assess and analyze, from a legal standpoint, the various powers being exercised by the Central and State Governments specifically under the Epidemic Diseases Act, 1987 (**"Epidemic Act"**) and the Disaster Management Act, 2005 (**"DM Act"**), to tackle COVID-19.

I. THE EPIDEMIC ACT

The Epidemic Act, a colonial era law, more than century old, was enacted with the aim of better preventing the spread of 'dangerous epidemic diseases'. The Epidemic Act, which comprises merely four sections, was enacted to tackle the epidemic of bubonic plague that broke out in the then Bombay state, at the time.

Legal framework provided under the Epidemic Act

Given the fact that the legislation was enacted primarily to contain and deal with localised epidemics and not the international spread of diseases. The Epidemic Act primarily confers wide powers upon State Governments to take special measures and formulate regulations that are to be observed by the people to contain the spread of **'dangerous epidemic disease' when such State Government thinks fit that the ordinary provisions of law are insufficient for the purposes of tackling the said disease**. A crucial aspect that needs to be noted is that the State Governments under the Epidemic Act are restricted to formulating regulations and undertaking measures to only such situations where the provisions of ordinary laws such as Indian Penal Code, 1860 would not suffice in order to contain the spread of 'dangerous epidemic disease'.

While the Epidemic Act confers certain powers upon the Central Government as well, those powers are by their very nature, particularly limited as compared with the powers of State Governments, and as a result, under the Epidemic Act, the Central Government is primarily empowered only to take measures and frame regulations for the inspection or detention of any ship or vessel leaving or arriving at any port in the territories where the Epidemic Act applies.

It is imperative to note that any person found violating the Epidemic Act or regulations / directions issued thereunder is liable in accordance with Section 188 of the Indian Penal Code, which provides imprisonment or fine in respect of disobeying the directions of a public servant.

Epidemic Act and COVID-19

While the Central Government could control international travel on account of the powers conferred under the Epidemic Act, given the limited power of the Central Government under the Epidemic Act to address the epidemic holistically, in the present COVID-19 situation, the Central Government issued advisories to various states / union territories to invoke the provisions of Epidemic Act and address the situation at hand. In this backdrop, several State Governments (and local authorities under such states) by exercising their powers under the Epidemic Act have undertaken several measures and have also framed state-specific 'COVID-19 Regulations, 2020' (for instance, Maharashtra, Karnataka, Delhi, West Bengal, Tamil Nadu etc.) under the Epidemic Act.

The regulations framed by the states primarily deal with aspects such as medical screening of individuals, isolation and quarantine measures, mandatory disclosure of travel history, restrictions on print and electronic media for avoiding the spread of any rumor or unauthenticated information regarding COVID-19, restrictions on private laboratories from conducting tests, etc. Further, in the event COVID-19 is being reported in a particular geographical area, the said regulations also confer special powers on authorized persons to take certain measures, *inter alia* including the sealing of the geographical area, banning the entry and exit of the population from the containment area, closure of schools, offices and banning public gatherings, and banning vehicular movement in the area.

Key takeaways

The authorities have, in the past, resorted to the Epidemic Act in order to prevent and mitigate certain epidemics, including to address the plague in Surat (1994), swine flu in Pune (2009), dengue and malaria in Chandigarh (2015) and cholera in Gujarat (2018), to name a few. Further, the authorities had, at the time of the Surat plague, ordered the closure of public places in certain locations, including schools, places of public entertainment such as cinema halls and public gardens, for an uncertain period, along with shutting down the industrial units, offices, banks etc. However, the epidemics that have previously been dealt with under the Epidemic Act have largely been localised and did not involve the complexities that an international disease transmission such as COVID-19 entails. Further, the measures previously implemented have also been largely localised to a few states / districts and do not compare with the strict social distancing measures of the scale being implemented

currently, with the complete lockdown of the country.

In the present situation as well, given the absence of a central public health legislation in India, with each state being separately empowered to issue its own set of guidelines under the Epidemic Act, the approach of each state has somewhat differed in tackling the COVID-19 situation. This has also led a number of employers with presence across multiple state jurisdictions, to have had to deal with separate state guidelines / directions at the same time.

In addition, the Epidemic Act also has various limitations in the present context especially given that the factors such as the emergence and spread of communicable diseases including scientific responses to tackle these have significantly changed. It is also important to note that the Epidemic Act was enacted in a distinct political scenario and centre-state relations post-independence have changed materially.
The drawbacks in the Epidemic Act have been noted previously as well, more particularly in the National Disaster Management Guidelines, 2008 issued by the National Disaster Management Authority ("**NDMA**") in the context of biological disasters ("**Guidelines**") wherein it was noted that, "*The Epidemic Diseases Act was enacted in 1897 and needs to be repealed. The Act does not provide any power to the Centre to intervene in biological emergencies. **It has to be substituted by an Act which takes care of the prevailing and foreseeable public health needs**, including emergencies such as BT (bioterrorism) attack and use of biological weapons by an adversary, **cross border issues and international spread of diseases**."*

It is also relevant to note that while the Epidemic Act, given its formulation during the colonial era, confers very wide and expansive powers upon State Governments, the directions/guidelines issued thereunder could be susceptible to challenge and judicial review as the Epidemic Act does not itself prescribe any limitations or duties upon the Governments in taking measures for preventing and controlling epidemics. While being completely silent on the rights of citizens, the Epidemic Act also doesn't clearly specify the situations and procedure under which the authorities may curtail the autonomy, privacy, liberty and rights of individuals. The Epidemic Act also fails to define 'dangerous epidemic disease' or to provide any guidance / factors (such as magnitude or severity of the problem, degree of population affected) basis which it may be determined what would constitute a 'dangerous epidemic disease' in order to prevent any misuse and ensure transparency.

II. THE DM ACT

Given the inadequacies in the Epidemic Act, the Central Government has largely relied on the DM Act for the purposes of responding to the COVID-19 crisis.

The DM Act was enacted in 2005 with the object of **providing for the effective management of disasters and for matters connected therewith or incidental thereto**.

The Union Government on March 14, 2020, declared COVID-19 to be a notified 'disaster' under the DM Act, as a consequence of which the states in India would be permitted to utilize funds available under the State Disaster Response Fund which is constituted under the DM Act. While in the past, no particular situation / instance of this scale has ever been treated as a 'national disaster' under the DM Act, the state Governments and local authorities, at the time of Kerala and Uttarakhand floods etc., had invoked the provisions of the DM Act and undertaken various measures thereunder.

Definition of 'disaster' and 'disaster management' under the DM Act

As per the DM Act, 'disaster' means a *"catastrophe, mishap, calamity or **grave occurrence in any area, arising from natural or man-made causes**, or by accident or negligence which **results in substantial loss of life or human suffering** or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area."*

Further, the expression 'disaster management' has been defined to mean a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient *inter alia* for the prevention of the danger or threat of any disaster; **mitigation or reduction of risk of any**

disaster or its severity or consequences and; prompt response to any threatening disaster situation or disaster. The DM Act also defines 'mitigation' as ***"measures aimed at reducing the risk, impact or effect of a disaster or threatening disaster situation."***

The DM Act and COVID-19

The DM Act confers very wide powers upon authorities at the level of central, state and district level to adopt various steps and measures and also allows them to lay down policies, guidelines, or plans for dealing with the disaster, and to undertake decisions in respect of aspects related thereto. Specifically, for the purposes of assisting and protecting the community affected by the relevant disaster or providing relief to such community or, preventing or combating disruption or dealing with the effects of any threatening disaster situation, the DM Act empowers the State Executive Committee as well as the District Authority *inter alia* to **(a) control and restrict, vehicular traffic to, from or within, the vulnerable or affected area; (b) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area; (c) procure exclusive or preferential use of amenities from any authority or person as when required, and (d) take such steps as the Central Government or the State Government may direct in this regard or take such other steps as are required or warranted by the form of any threatening disaster situation or disaster.**

Penal provisions have also been prescribed in the DM Act, whereby prosecution may be initiated against persons *inter alia* for, (i) causing obstruction to persons discharging their functions under the DM Act; (ii) not complying with directions issued under the DM Act; and (iii) making or circulating false alarms or warnings as to a disaster, or its severity or magnitude, leading to panic.

Power to Lockdown

It may be noted that, the DM Act does not contain any specific powers to implement a measure such as a 'lockdown' to prevent and mitigate a disaster. The DM Act's powers in the context of controlling vehicular traffic and restricting entry is also in relation to a localized affected area and would not empower the Government to impose a nationwide lockdown. In such a scenario, the Prime Minister being chairman of NDMA had issued the lockdown order in exercise of the general powers under Section 6(2)(i) and Section 10(2)(l) of the DM Act. Section 6(2)(i) of the DM Act provides that **the NDMA may take such other measures for the prevention of disaster, or the mitigation, or preparedness and capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary**. Further, Section 10(2)(l) of the DM Act empowers the National Executive Committee (**"NEC"**) to lay down guidelines for, or give directions to, various ministries and / or the central and state level regarding measures to be taken by them in response to any threatening disaster situation or actual disaster.

While the imposition of a nationwide lockdown and other measures imposed in relation to COVID-19 may be judicially tested in the future if the measures are undertaken for a prolonged period of time, however, should a challenge of this sort arise in the future, the courts may look at the fact that several international jurisdictions have also imposed lockdowns to arrest the spread of COVID-19 and any such lockdown, was considered in the wisdom of the executive (guided by health experts) as being required for the purposes of tackling of COVID-19. In this respect, the National Disaster Management Guidelines, 2008 issued by the NDMA in the context of biological disasters (defined above as **"Guidelines"**) which specifically envisage the importance and efficacy of social distancing measures would also become relevant. It is pertinent to note that the Guidelines which were formulated more than a decade ago, specifically provide that:

> *"**Spread of communicable diseases in many conditions can be controlled or prevented by reducing direct contact with patients.** Social distancing measures such as closure of schools, offices and cinemas is recommended to prevent the gathering of large numbers of people at one place. Further, there could be a ban on cultural events, melas, etc. Entry to railway stations and airports could be restricted. There is evidence to suggest that social distancing measures, if properly applied, can delay the onset of an epidemic, compress the epidemic curve and spread it over a longer time, thus*

reducing the overall health impact. ***Social distancing measures, if required to be implemented in the context of an epidemic, may be voluntary or legally mandated****.*

*….****Quarantine refers to not only restricting the movements of exposed persons but also the healthy population beyond a defined geographical area or unit/institution (airport and maritime quarantine) for a period in excess of the incubation period of the disease****. Restrictions in the movement of the affected population is an important method to contain communicable diseases."*

Power to Requisition Resources

Additionally, under the DM Act, the NEC, the State Executive Committees or District Authorities have also been **empowered to requisition (i) any resources** with any authority or person that are required for the purpose of prompt response to the disaster; or **(ii) any premises** as required or likely to be required for the purpose of rescue operations; or **(iii) any vehicle** as needed or is likely to be needed for the purposes of transport of resources from or to the disaster affected areas for the purposes of rescue, rehabilitation or reconstruction activities. Whenever any Committee or Authority in exercise of the said powers requisitions any premises, the persons interested shall be paid compensation, the quantum of which shall be determined while taking into consideration such factors as are specified under the DM Act.

These powers may be invoked by appropriate authorities for the purposes of disaster management in the present COVID-19 disaster if deemed fit by the relevant authority, and are similar to the powers under the Defense Production Act, 1950 of the United States whereby the Government of the United States of America has forced General Motors to produce ventilators for COVID-19 patients. In India, we understand that certain automobile companies and private hospitals have been approached by the Government asking them to manufacture and produce ventilators and protective gear and assist in developing medical and healthcare infrastructure in the country.

Compulsory Payment of Wages

The issue of compulsory payment of wages to workers had, until recently, been dealt with individually by relevant state authorities, with each state taking a different approach and exercising their powers under different legislations, with Telangana having exercised their powers under the relevant state Shops and Establishment legislation, the state of Haryana and Maharashtra having issued mere advisories from their labour departments, and the district of Noida having invoked their powers under the DM Act, to make payment of wages during this period mandatory.

However, very recently, on March 29, 2020, in exercise of powers under the Section 10(2)(l) of the DM Act, the Home Secretary issued an order dated March 29, 2020 *inter alia* **directing all the employers (be it in industry or shops of establishments) to make payment of wages of their workers, on due date without any deduction, for the period their establishments are under closure during the lockdown**. Further, **for workers living in rented accommodation, the landlords of those properties have been obligated to not demand payment of rent for a period of one month, with the landlord being liable for action under the DM Act in the event they are forcing laborers and students to vacate their premises**.

Given this is an exercise by the Central Government of its powers under the DM Act, and the direction is mandatory (and not advisory in nature), the violation of such direction would likely entail penal consequences under the DM Act. While temporary measures aimed at ensuring payment to workers may be palatable to solvent employers, it is possible that, if the aforesaid measures of compulsory payment of wages are imposed on employers in a scenario where lockdowns are in operation for a prolonged period of time, such measures may be challenged as excessive before the appropriate judicial forums in India.

It is also worthwhile to note that the Central Government has successively amended the lockdown guidelines, by making additions to essential services and providing certain other exemptions from the applicability of the lockdown, such as the recent order to permit non-essential transport of goods as well. In a scenario where the Government has made

frequent modifications to the lockdown order, which has resulted in businesses having lost valuable time to operate, there exists a possibility of questions being raised with regard to whether the specifics of the Government's lockdown order factored in all the needs of the country, and was founded on justifiable material, especially where the frequent modifications to the lockdown order have caused undue hardship and financial loss to the businesses.

Challenge and Extent of Judicial Review

Given the limited instances of the scale at which the Epidemic Act and the DM Act have been previously employed, and the unprecedented nature of the COVID-19 situation, there is scant direct guidance in terms of judicial precedents where measures such as those implemented previously have been judicially tested from the touchstone of constitutionality.

As enumerated above, there does not appear to be any specific provision or power that directly enables the effectuation of a lockdown measure of the nature that has been implemented. That is to say, while a plethora of specific measures are clearly available to be implemented, an implementation of a national level lockdown appears to be unprecedented, both in practice and in specific legislative contemplation.

In this regard, it pertinent to consider here the recent judgment of the Supreme Court of India in the case of *Internet and Mobile Association of India vs. Reserve Bank of India [Indlaw SC 234]* ("**IMAI Case**") where the Supreme Court considered the RBI's actions against crypto currency operators in the country. One of the key considerations contemplated by the Supreme Court in its evaluation of actions undertaken by authorities in exercise of their powers under the statute was whether there had been proper application of mind, with relevant considerations being taken into account, while undertaking actions and issuing directions. The Supreme Court, in the IMAI Case, sought to consider specifically whether certain activities had been undertaken, namely (i) gathering facts; (ii) sifting relevant material from those which are irrelevant; and (iii) forming an opinion about the cause and connection between relevant material and the decision proposed to be taken.

As such, and post-facto the resumption of a stable national situation, it would be relevant for us to consider whether there had been proper application of mind in determining the necessity of promulgation of the various measures undertaken as part of tackling COVID 19, including the materials evaluated on record for the purposes of finalizing the measures that had come to be adopted. The same considerations are all the more relevant given that in the present COVID-19 situation, the Government has adopted various expansive measures under the Epidemic Act and the DM Act including lockdowns, restrictions on print and electronic media etc., with there not being clarity on the sunset time-lines for a number of these measures. Unfortunately, at the present juncture, it appears that, given the lack of viable vaccines for COVID-19, such state of affairs are likely to continue in the longer run, thus highlighting all the more the importance of the above legal considerations. While lockdown as a measure to control the spread of COVID-19 within the country may find merit as having been advocated by medical professionals and the World Health Organisation, with other nations having also resorted to such measures, it goes without saying, of course, that such measures, if continued for a prolonged period of time, would have a crippling and widespread impact on the nation's economy. We may specifically note in the context of the Epidemic Act, that the Epidemic Act itself does not prescribe any limitations or duties upon the Governments for taking measures for preventing and controlling epidemics; it is completely silent on the rights of citizens, and also does not clearly specify the situations and procedure under which the authorities may curtail the autonomy, privacy, liberty and rights of individuals. We note that critics in other countries such as Italy have already begun scrutinizing the Italian measures in response to the COVID-19 threat, which have been criticized for improper delegation of powers that enable derogation from fundamental rights in contravention of the Italian constitutional scheme.

Furthermore, in so far as the Epidemic Act and the DM Act are concerned, the powers that have been delegated to subordinate authorities, and their exercise of such powers, would also be subject to judicial review to the extent that the **actions that are initiated in furtherance of the powers granted by the legislation must remain**

within the confines of i.e *intra vires* of *inter alia* the parent statutory provisions, as well as fulfil the object and purpose of the enabling act, as has been laid down by the Supreme Court in *State of Tamil Nadu v. P. Krishnamurthy [AIR 2006 SC 1622].*

In a case before the Kerala High Court under the DM Act (*Malabar Sand and Stones Pvt. Ltd. vs. Union of India [2019 (1) KHC 859]*), whilst considering the validity of certain State and District Disaster Management Plans under the Disaster Management Act, 2005, the Kerala High Court held that "*when public interest comes into play, the court need look into whether there is any foundational flaw or material illegality, irregularity or arbitrariness in the action taken by the statutory authorities*." While the judgment was not in the context of responses to epidemic disasters, the aforesaid does give us some guidance to the approaches that may likely be adopted by the Indian judiciary in cases arising from the COVID-19 epidemic.

The principles enunciated above are not unique to the Indian context and have also been adopted in response to diseases in other countries such as the United States, where in *Pedersen vs. Benson [255 F.2d 524 (C.A.D.C. 1958)]*, the United States Court of Appeals (District of Columbia Circuit), while considering certain laws regarding the spread of communicable animal diseases between states, held that the power to formulate subordinate regulations under the parent law must not be exercised with unfettered discretion and would only be valid as subordinate rules and when found to be within the framework of a sufficiently defined legislative policy. It may also be noted that the European Court of Human Rights, in the case of *Enhorn vs. Sweden [[2005] E.C.H.R. 56529/00]*, for instance, has ruled in the case of detention of a person for spreading of infectious diseases, that the essential criteria when assessing the "lawfulness" of the detention of a person in such a scenario are whether the spreading of the infectious disease is dangerous to public health or safety, and whether detention of the person infected is the last resort in order to prevent the spreading of the disease, because less severe measures have been considered and found to be insufficient to safeguard the public interest.

Separately, given the restrictions on fundamental rights, the Government's actions would also likely be tested on the touchstone of rationality of the measures adopted. Specifically, as laid down in the case of *State of West Bengal vs. Anwar All Sarkarhabib Mohamed [AIR 1952 SC 75]* under the Indian constitutional scheme, a derogation from Article 14, which protects a person's right to '*equal protection of laws*', may only be permitted where there is intelligible differentia between the classes created and the differentiation bears a rational nexus with a legitimate governmental objective. As held by the Supreme Court in the case of *Md. Faruk vs. State of Madhya Pradesh & Ors [(1969) 1 SCC 853]*, when the exercise of a fundamental right is prohibited, the burden of proving that a total ban on the exercise of the right alone may ensure the maintenance of the general public interest lies heavily upon the state. We may further note here, the case of *R.D. Shetty vs. International Airport Authority [(1979) 3 SCC 489]*, which held that the "*principle of reasonableness and rationality which is legally as well as philosophically an essential element of equality or non-arbitrariness is protected by Article 14 and it must characterize every State action, whether it be under authority of law or in exercise of executive power without making of law*".

Excessive delegated legislation and need for a dedicated legal framework

While the DM Act gives wide powers to the Government to impose such measures as they deem necessary, given these measures are not explicitly laid down under the DM Act, the imposition of obligations on employers and landlords would certainly be tested from the standpoint of whether these measures were excessive delegated legislation, as well as whether the measures taken were arbitrary and unreasonable to the private sector and did not have a rational nexus for the purposes of achieving the object of the DM Act. Further, while the DM Act does allow for the Government to take measures to reduce the risk, impact or effect of a disaster, it remains to be seen whether the imposition of financial obligations on employers and landlords for the benefit of workers could be said to be a mitigation of effects of a disaster *per se* **but rather aimed at addressing second-level economic concerns stemming from some of the lockdown measures imposed. For instance, the various directives, discussed above, regarding**

payment of complete salary and non-collection of rents, appear to be, *prima facie*, measures aimed at addressing the economic consequences of the lockdown, rather than the spread of the epidemic itself. In a sense, such measures appear to be a economic redistribution of costs associated with the lockdown within the private sphere, namely amongst employers and property holders. In the event that such second-level measures are to be implemented, the same should be supported with economic stimulus packages of the nature contemplated, for instance, in the United States of America. This is, of course, all the more important for sensitive sectors such as the travel and tourism industry, whose income is now almost nil, and who are still expected (and in certain instances mandated) to bear the full economic burden of their various costs, without support.

Further, given that a country-wide lockdown (with few exemptions) has impacted the right to life and livelihood of several workers, with migrant workers having thronged the highways to return to their homes, the Government's measures in this regard, coupled with the fact that the Government has not announced any substantial relief measures to compensate the workers themselves for their loss of income, could also be tested on the touchstone of Article 21 of the Constitution of India, which guarantees the right to life and livelihood of persons. While the Government has exercised its wide powers under the DM Act to obligate the employers to continuously pay their workers and landlords have been asked to not ask workers for rent for a limited period, the imposition of financial burden on private parties can certainly not be said to be in furtherance or incidental to the objects of the DM Act or something which was envisaged by the lawmakers at the time of enactment of the DM Act, especially where the Government itself is not compensating the employers and landlords for their loss. These obligations could be particularly burdensome for some landlords whose primary/ substantial source of income may come from the rent received from occupation of their premises from the workers. Accordingly, it would certainly need to be examined whether the imposition of a financial obligation on private parties, such as employers and landlords, when the Government is not compensating them for their losses in this respect, could be undertaken as part of the rule-making powers of the Government, or instead, would require enactment of a specific legislation to this effect.

In the present scenario, therefore, the specific nature of the various measures adopted by the central and state authorities is likely to be scrutinized, notwithstanding that the same have been undertaken in the interest of public health and safety. Specifically, potential roots for litigation may emerge in several scenarios, including insofar as their impact on commercial transactions is concerned, as well as where relief measures are not undertaken to compensate landlords and employers for their losses during the lockdown period despite such losses emanating partly from various Governmental directions, such as those which mandate non-deduction of employee salaries and non-collection of rents. Such measures, as well as the various economic consequences arising out of parties' failure to perform their obligations under a contract on account of COVID-19 or on account of the Government's measures to tackle COVID-19, would, if permitted to be continued for a longer period without adequate economic support, essentially work to undermine the country's economic foundations by imposing the economic burden of the extraordinary lockdown measures on private citizens and corporations.

While the Government has announced some relief measures to Indian corporates such as (a) extending certain statutory deadlines for undertaking various compliances and making reporting; and (b) the Reserve Bank of India permitting all lending institutions to grant a moratorium of three months in respect of all term loans; strong economic support in the nature of a stimulus package would be sorely needed if the economic consequences of the lockdown measures described above are to be mitigated. **In other words, a separate legal framework with relief packages, similar to the one announced in the US, is required to compensate the private sector for loss caused on account of the Government's measures to tackle COVID-19 and the cost imposed on them (whether directly or indirectly) on account of their compliance with the DM Act and the Government's measures undertaken thereunder.**

However, in the present scenario, on account of the restrictions imposed upon fundamental rights by the lockdown and the economic implications on businesses, the legal considerations enunciated above would likely become vitally important and may even be used to challenge the validity of specific actions undertaken, especially where questions of restrictions on fundamental rights are involved. However, it may be noted that the Supreme Court has long resisted substantial interference in the judgment of expert bodies on an issue, more recently, in instances where economic decisions of the Government are concerned. In other jurisdictions, such as the United States of America, such judicial deference is also extended to health officials in their imposition of quarantine measures, as specified, for instance in the case of *United States v. Shinnick [219 F. Supp. 789 (1963)]*. The judicial approach eventually adopted, and consequently, the outcomes of any litigations in such cases, would remain to be seen.

Contract enforcement and the DM Act

Another aspect that assumes vital significance is the extent to which the courts would hold a party liable for breach of its contract in the event of any breach by a party of its obligations on account of the effects of the Government's nationwide lockdown, where such breach of contract is otherwise not dealt with as part of *force majeure* or frustration of contract in the manner discussed above. Specifically, on account of the country being under lockdown, several contracting parties are unlikely to be able to perform their obligations.

In this backdrop, while India being a common law country, is driven by a strict interpretation of contracts, in an unprecedented scenario such as the present, it remains to be seen whether the courts would seek to strictly enforce contractual obligations in such unprecedented times. Any strict enforcement of contractual obligations by the courts would likely give rise to several more disputes and substantial financial obligations on contracting parties that have been unable to perform their obligations on account of the restrictions imposed by the Government to deal with COVID-19.

Accordingly, while the judiciary's approach remains to be seen and would one would only have visibility on the same in times to come, it would be imperative for the Government to take proactive steps in this respect, by enacting legislation that would absolve parties of consequences for breach of their obligations to the extent the same is arising on account of COVID-19 or the Government's measures to tackle the pandemic. As we have mentioned above, the Government could, as part of such a legislation, also seek to compensate the employers and landlords for the financial burden being imposed on them to protect the workers. Given that these measures are essential features of legislation, and not aspects that can be dealt with by subordinate rules/ regulations, the requirement of a comprehensive legislation to deal with these aspects is the need of the hour.

We trust this update helps you in understanding both the legal impact on businesses and the current restrictions imposed by various Government bodies presently impacting major cities and business centres in India. We will continue updating you with the various measure taken in India to tackle the COVID-19 crisis. We are available to address any further queries you may have and to provide any legal assistance you may require.

Thanking you and wishing you good health in these times,

L&L Partners

Annexures – Legal Pronouncements and Updates

* Current as of March 27, 2020

THE MINISTRY OF FINANCE AND THE RESERVE BANK OF INDIA

- The threshold for initiating insolvency proceedings against a corporate debtor under the Insolvency & Bankruptcy Code, 2016 ("**IBC**") has been increased from INR 1,00,000 (Indian Rupees One Lakh) to INR 1,00,00,000 (Indian Rupees One Crore). The Government of India has also announced that Section 7, 9 and 10 of the IBC, dealing with the initiation of insolvency proceedings, may be suspended for a period of six months if the situation continues beyond April 30, 2020.
- The Supreme Court of India has recently granted stays on orders passed by the Kerala High Court and the Allahabad High Court which sought to defer the initiation of recovery proceedings by banks and tax authorities in light of the COVID-19 pandemic.
- The Reserve Bank of India ("**RBI**") has announced permission to all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India financial institutions and non-banking financial companies (including housing finance companies and micro-finance institutions) ("**Lending Institutions**") to allow:
    - a moratorium of three months on payment of instalments in respect of all term loans outstanding as on March 1, 2020; and
    - deferment of three months on payment of interest in respect of working capital facilities sanctioned in the form of cash credit / overdraft, outstanding as on March 1, 2020 (accumulated interest will be paid after the expiry of the deferment period).
- The moratorium on term loans and the deferring of interest payments on working capital will not result in asset classification downgrade.
- In addition to the above mentioned measures, the RBI has announced the following relief measures to ease the stress on the financial condition of the market due to the COVID 19 outbreak:
    - Repo rate has been reduced by 75 basis points to 4.4% (four decimal four percent), from the earlier rate of 5.15% (five decimal one five percent).
    - Liquidity adjustment facility has been cut by 90 basis points to 4% (four percent). The reverse repo rate has been reduced by 90 basis points to 4% (four percent).
    - Cash reserve ratio ("**CRR**") of all banks has been cut by 100 basis points to 3% (three percent) of net demand and time liabilities with effect from the reporting fortnight beginning March 28, 2020.
    - The requirement of minimum daily CRR balance maintenance has been reduced from 90% (ninety percent) to 80% (eighty percent) effective from the first day of the reporting fortnight beginning March 28, 2020 to June 26, 2020.
    - The limit under marginal standing facility has been increased from 2% (two percent) to 3% (three percent) of statutory liquidity ratio.
    - To minimise the pressure on cash flows across sectors, the RBI will conduct auctions of targeted term repos of up to three years tenor of appropriate sizes for a total amount of up to Indian Rupees One Lakh Crore at a floating rate linked to the policy repo rate – liquidity received by banks pursuant to this scheme must be deployed in investment grade corporate bonds, commercial paper and non-convertible debentures over and above the outstanding level of their investments as on March 25, 2020. The investments made by banks under this facility will be classified as held to maturity (HTM) in excess of the limit of 25% (twenty five per cent) of total investment permitted to be included in the HTM portfolio.
    - Banks may also recalculate drawing power by reducing margins and / or by reassessing the working capital cycle for the borrowers – this will not result in asset classification downgrade.

- Implementation of net stable funding ratio has been deferred to October 1, 2020.
- Implementation of the last tranche of 0.625% (zero decimal six two five percent) of capital conservation buffer has been deferred from March 30, 2020 to September 30, 2020.
- Banks which operate IFSC Banking Units have been permitted to participate in the non-deliverable fund market with effect from June 1, 2020.

  Low interest temporary loans are likely to be made available. Borrowers may also take the recourse of the *force majeure* or MAE provisions in the financing contract, if applicable, or else attempt to renegotiate repayment timelines or key covenants.

TRAVEL RESTRICTIONS

The Ministry of External Affairs has issued various notifications specifying travel restrictions implemented for travel to and from India (as of March 25, 2020):

- All existing visas and visa-free travel facility granted to OCI holders, except diplomatic, official, UN / international organizations, employment and project visas, have been suspended till April 15, 2020. Foreign nationals having compelling reasons to travel to India are required to contact the nearest Indian Mission for grant of visa. Foreign nationals who are in India are required to approach their jurisdictional Foreigner Regional Registration Office (FRRO) for extension of their visas before the expiry of such visas.
- No scheduled international commercial passenger aircraft shall be allowed to land in India till April 14, 2020.
- All domestic air travel has been suspended with effect from March 25, 2020.
- The Indian Railways has notified the cancellation of all passenger train services till April 14, 2020.
- Persons who have arrived in India after February 15, 2020 have to be under mandatory quarantine for such time periods as instructed by the authorities.
- All passenger movement through all Immigration Land Check Posts located at the Indian border shared with Bangladesh, Nepal, Bhutan, Myanmar and Pakistan (save for some notified check posts) have been suspended.

GOVERNMENT MEASURES FOR PUBLIC HEALTH AND SAFETY

- The Government of India has imposed a complete lock-down in the country for a period of 21 days starting on March 25, 2020. All public / private establishments, excluding specified essential services and establishments, have been closed for this period.
- The Ministry of Labour and Employment has issued an advisory to all public & private sector establishments to allow all employees (specifically casual or contractual workers) to take paid leaves and not deduct their salaries / wages. This has also been reflected in the orders of several State Governments.
- The Department for Promotion of Industry and Internal Trade has issued instructions to state authorities for ensuring operational viability and to maintain uninterrupted supply of food products.
  - All food processing companies will be allowed to keep their manufacturing facilities open and an exemption should be made for all such manufacturing facilities.
  - All retail /grocery stores, organized trade including cash & carry and wholesale and chemists / pharmacies will be allowed to remain open.
  - Workers of essential retail outlets, pharmacies and manufacturing units shall be allowed to travel to their units.
  - Transport vehicles carrying raw materials and intermediates to and from the food processing units will be allowed to ply.
- The Ministry of Labour & Employment has extended the deadline for filing of the unified annual return under eight labour laws for the year 2019 to April 30, 2020.

CORPORATE GOVERNANCE

- The Ministry of Corporate Affairs ("**MCA**") has relaxed the requirement of holding board meetings with the physical presence of directors for approval of the annual financial statements, Board's report, etc. till June 30, 2020. All such board meetings may be conducted through video conferencing or other audio-visual means by ensuring the compliance with all requirements laid down under Rule 3 of the Companies (Meetings of Board and its Powers) Rules, 2014.
- The MCA has announced the following special measures under the Companies Act, 2013 and Limited Liability Partnership Act, 2008:
    - No additional fees shall be charged for late filing during the moratorium period from April 1 to September 30, 2020, in respect of any document, return, statement etc., required to be filed in the MCA-21 Registry, irrespective of its due date;
    - The mandatory requirement of holding meetings of the board of the companies within the intervals provided in Section 173 of the Companies Act, 2013 (120 days) has been extended by a period of 60 days till next two quarters i.e., till September 30, 2020;
    - The application of the Companies (Auditor's Report) Order, 2020 has been deferred to the next financial year;
    - The requirement of holding a meeting with the presence of only the independent directors of the company without the attendance of non-independent directors has been relaxed for FY 2019-2020. Failure to hold the said meeting in FY 2019-2020 shall not be deemed to be violation. Moreover, independent directors have been given discretion to conduct such a meeting over any other mode of communication;
    - The requirement to create the deposit repayment reserve of 20% (twenty percent) of deposits maturing during the financial year 2020-21 before April 30, 2020 has been allowed to be complied with by June 30, 2020;
    - The requirement to invest or deposit at least 15% (fifteen percent) of amount of debentures maturing in specified methods of investments or deposits before April 30, 2020, may be complied with till June 30, 2020;
    - An additional period of 180 days has been allowed to new companies for filing declaration for commencement of business; and
    - Non-compliance of minimum residency in India for a period of at least 182 days by at least one director of every company will not be treated as a non-compliance for FY 2019-2020.
- The MCA has also notified that spending of Corporate Social Responsibility ("**CSR**") funds for tackling the COVID-19 epidemic will be eligible as CSR activity.
- The Securities and Exchange Board of India ("**SEBI**") has relaxed the timelines for certain filings to be made by listed companies under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. Details of the shareholding pattern of the company may now be filed by May 15, 2020. Quarterly financial results annual financial results may be filed by June 30, 2020. Corporate compliance report may be filed by May 15, 2020. Certificate from practicing company secretaries on timely issue of share certificates may be filed by May 31, 2020.
- The top 100 listed entities by market capitalization were required to conduct their annual general meeting for the FY 2019-2020 by August 31, 2020. Such annual general meeting may now be conducted latest by September 30, 2020.
- Meetings of the nomination and remuneration committee, the stakeholders' relationship committee and the risk management committee, originally to be conducted by March 31, 2020, can now be conducted by June 30, 2020.
- SEBI circular dated January 22, 2020 on Standard Operating Procedure ("**SoP**") will come into effect with effect from compliance periods ending on or after June 30, 2020. SoP circular dated March 3, 2018 shall be applicable till such date.

- SEBI has also relaxed the maximum stipulated time gap requirement for the conduct of the meetings of the board of directors and audit committee of the board. However, the requirement of at least four board meetings and four audit committee meetings in a year has to be met by the companies.
- Disclosures relating to business risk and impact of COVID-19 on the financial strength of the company, by listed companies and companies looking to list their securities on a stock exchange may also need to be revisited. These disclosures may be subject to greater scrutiny by the regulators.
- The MCA has issued an advisory on all the measures that companies /LLPs are expected to take to tackle the spread of COVID-19. The MCA has also released a web form titled "CAR (Company Affirmation of Readiness towards COVID-19)" which is required to be filed by all Companies / LLPs regarding compliance with COVID-19 Guidelines including work from home policy.

TAXATION

- **Income Tax**
  - The last date for filing income tax returns for FY 2018-2019 has been extended to June 30, 2020.
  - Time limits in relation to issue of notice, intimation, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents and time limit for completion of proceedings by the taxation authorities and any compliance by the taxpayer including investment in saving instruments or investments for roll over benefit of capital gains, where expiring between March 20, 2020 and June 29, 2020 has been extended to June 30, 2020.
  - For delayed payment of advanced tax, self-assessment tax, regular tax, tax deducted at source, tax collected at source, equalization levy, securities transaction tax and commodities transaction tax made between March 20, 2020 and June 30, 2020, interest will be charged at 9% (nine percent). No late fee / penalty shall be charged for delay relating to this period.
- **Goods and Services Tax ("GST") / Indirect Tax**
  - Last date for filing GSTR-3B in March, April and May 2020 will be extended till June 30, 2020 for entities having aggregate annual turnover of less than INR 5,00,00,000 (Indian Rupees Five Crore). No interest late fee and / or penalty will be charged.
  - For any delayed payment made between March 20, 2020 and June 30, 2020, a reduced rate of interest of 9% (nine percent) per annum will be charged. If compliance is done before June 30, 2020, no late fee and penalty will be charged.
  - Date for opting for composition scheme has been extended till the last week of June 2020. Further, last date for making payments for the quarter ending March 31, 2020 and filing of return for FY 2019-2020 by the composition dealers has been extended till the last week of June 2020.
  - Date for filing GST annual returns for FY 2018-2019 has been extended till the last week of June 2020.
  - Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents, time limit for any compliance under the GST laws where the time limit is expiring between March 20, 2020 to June 29, 2020 shall be extended to June 30, 2020.
- **Customs Duty**
  - Custom clearance will remain open round-the-clock till June 30, 2020.
  - Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing applications, reports, any other documents etc., time limit for any compliance under the Customs Act, 1962 and other allied laws where the time limit is expiring between March 20,

2020 and June 29, 2020 has been extended to June 30, 2020.

RESTRICTIONS ON FUNCTIONING OF VARIOUS COURTS

- The Supreme Court has extended the period of limitation for filing of matters in any court, including the Supreme Court under any law, with effect from March 15, 2020 till further orders.
- The Supreme Court will be hearing only matters of extreme urgency through video conferencing.
- Several High Courts have restricted their operations to hearing only matters of extreme urgency.
- Various subordinate courts have also restricted their operations to matters of extreme urgency.
- NCLT benches shall only take up urgent matters for hearing and are expected to keep giving adjournment for pending matters till March 27, 2020. Filing counters at all benches of the NCLT have been closed until further notice. Matters may be filed online and hard copies of the documents may be submitted when the filing counters reopen.

NEW DELHI

1st and 9th Floor, Ashoka Estate,
24 Barakhamba Road, New Delhi - 110 001
T: +91 11 4121 5100 F: +91 11 2372 3909
E: delhi@luthra.com

MUMBAI

20th Floor, Indiabulls Finance Center, Tower 2 Unit A2, Elphinstone Road,
Senapati Bapat Marg, Mumbai - 400 013
T: +91 22 4354 7000 / +91 22 6630 3600 F: +91 22 6630 3700
E: mumbai@luthra.com

BENGALURU

3rd Floor, Onyx Centre, No. 5, Museum Road, Bengaluru - 560 001
T: +91 80 4112 2800 / +91 80 4165 9245 F: +91 80 4112 2332
E: bangalore@luthra.com

HYDERABAD

3rd Floor, Plot No. 8-2-619/1, Road No. 11, Banjara Hills
Hyderabad – 500 034, Telangana
T: +91 40 66206662
E: hyderabad@luthra.com