Sanhita Sanhita Sanhita Sanhita

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ICSI -WIRC Pune Chapter Newsletter

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A Capsule of Information for Corporate Professionals

ATMANIRBHAR Bharat Abhiyaan

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Special Issue

Chairman's Communique

In every crisis, if you look carefully, you will spot an opportunity. My insistence is on finding and seizing that opportunity. I never try to side-step a crisis. Rather, the more monstrous the crisis, the more I am tempted to rush at it, grasp it by the horns and man-oeuvre it until it gives me what I want" -- Verghese Kurien

Respected Seniors, Professional Colleagues and Dearest Students,

It gives me immense pleasure to communicate with you through this "Special Edition" of Sanhita - newsletter of Pune Chapter.

Pune chapter of ICSI has come up with various initiatives for its members for utilisation of this lockdown period in constructive way. In an attempt to provide the members an opportunity to share their knowledge and with the objective of creating inclination towards research among the members, the Chapter had organised Research Paper Competition in the months of April- May 2020, by inviting research papers on five contemporary subjects. I am glad to inform you that the Research paper Competition got tremendous response from members. Experts have assessed the research papers on the defined parameters. We have decided to publish best nine research papers selected by the jurists through special editions of Sanhita. In this month's edition, five research papers on three subjects are published. List of winners on these subjects is published in this edition. Remaining four research papers on two subjects will be published in subsequent edition. I congratulate all the winners of the Research Paper Competition and appreciate the efforts put in by all the participants in comprehensive research.

Though the lockdown has restricted our one to one interaction in person, in the continuous efforts to serve the members and students, Pune Chapter has grabbed the opportunity to go online from offline mode. Pune Chapter successfully organised webinars for members on contemporary issues like revised FDI policy to curb opportunistic takeovers, navigating deal structuring amid COVID-19 and impact of lockdown on employment laws. The Chapter commenced its first batch of newly introduced CSEET (CS entrance exam test) coaching through online classes where students across the country have enrolled.

I believe, above first placed lines of Mr. Verghese Kurien are apt to inspire us in present scenario to look at the brighter side of life. What we are in now is the biggest ever lockdown in the history of mankind. There is an opportunity to do things we could not do before!!

Mr. Kurien's quote reflects that, it is with this mindset that he was able to make India a country with highest amount of milk production thereby making India "Aatmanirbhar" nation with respect to milk production. He is known as "Architect of White Revolution". Under his leadership, "Operation Flood" of the Government of India brought White Revolution in the country and made our country self-sufficient in milk production.

In the month of May, our prime minister Mr. Narendra Modi in his address to nation said that, to fulfil the dream of making the 21st century's India, the way forward is through ensuring the country becomes "self-reliant". He urged us to turn the Corona crisis into an opportunity and gave the example of domestic manufacturing of PPE kits and N-95 masks have made India self reliant on these fronts. We were able to do this because India turned this crisis into an opportunity. This vision of India - turning crisis into opportunity- is going to prove equally effective for our resolution of self-reliant India."

Taking inspiration from story of Mr. Kurien and our Prime Minister's address, I have no doubt in my mind that, we as corporate law professionals, will make every possible attempt to bring the dream of Aatma Nirbhar Bharat in reality. Our prompt and expert advice to corporates on various regulatory reforms will definitely lay a strong foundation to build 21st century's Aatma Nirbhar Bharat.

Friends, we are in the Unlock 1.0. Many of us may resume the work routine soon. We have to be extremely cautious about health and safety at workplace as there is a great chance of recurrence of the virus. We have to adjust to a new way of life, where social and economic life will have to co-exist with reduced disease transmission.

Stay safe and stay healthy!!

With regards,

CS Gaurav Nashikkar

Chairman – Pune Chapter of WIRC of ICSI

Impact of epidemic on contracts and impact of regulatory moratorium given by MCA to the Corporates

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Introduction

An epidemic is a widespread occurrence of an infectious disease in a specific area or community and a pandemic is a widespread occurrence of an infectious disease in many parts of the world. The outbreak of novel coronavirus (**"COVID-19"**) was declared as a pandemic by the World Health Organization on March 11, 2020.[1]

The outbreak of COVID-19 in India has got things to a standstill with mandatory lockdown imposed by the Government of India as one of the measures to curb the spread of the pandemic. While the lockdown was a much needed step and probably need of the hour, COVID-19 outbreak has impacted all kinds of businesses whether small or medium scale enterprises or large manufacturing entities.

COVID-19 outbreak followed by lockdown has changed the way in which businesses are run in India as well as other parts of the world. The social distancing policy has led to hundreds of professionals adopting to 'work from home' model to keep their businesses functioning. Business models which cannot adopt to 'work from home' model due to their very nature are facing many challenges and struggling for survival. COVID-19 has had a severe impact on domestic and international businesses. Few sectors like aviation, hospitality, travel and tourism, amongst others are severely affected whereas essential services sectors like pharmaceuticals, information technology, FMCG have seen a boom.

In these difficult and testing times, various ministries and departments of the Government of India have come up with different kinds of relaxations, guidelines, FAQs for the benefit of various stakeholders including corporates, employees, owners of manufacturing entities, listed companies, etc. These relaxations range from additional moratorium period granted for compliance with various applicable laws, extension of timelines for filing of various e-forms and returns, guidelines in respect of payment of wages during lockdown and so on.

This Below is an analysis of 2 areas viz. (i) impact of COVID-19 outbreak specifically on commercial contracts; and (ii) impact of moratorium granted by the Ministry of Corporate Affairs, Government of India to the corporates.

1. Impact of COVID-19 on commercial contracts

Commercial contracts are the genesis of all business arrangements and the COVID-19 situation has resulted in various difficulties in terms of performance of contracts, execution of contracts and so on. While companies across the world are struggling to keep their businesses on track, there are many instances where companies are unable to perform their contractual obligations as a result of various reasons like non-availability of raw materials due to supply chain disruptions, lack of manpower, lack of funds etc.

Well drafted contracts have suddenly gained limelight as parties having difficulty in fulfilling their contractual obligations are going back to the contracts, they executed long time ago to seek remedies or possible solutions to the problem at hand. Few major aspects of contracts which are relevant in the present scenario and the impact of COVID-19 on contracts in various sectors are deliberated hereinbelow.

A. Force Majeure

The term 'force majeure' is a French term which literally means 'superior force'. Force majeure clause in a contract typically will list down the events caused by force majeure resulting in inability to perform contractual obligations by the parties to the contract and determines the risks and liabilities involved in the event of impossibility of performance of contracts.

Force majeure is an extraordinary event that is beyond human control and is generally described as an act of God (like natural calamity, natural disaster, earthquakes, floods, diseases, etc.) or events like war, strikes, riots,

[1]-https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020

crimes (but not including negligence or wrong-doing, predictable/ seasonal rain and any other events specifically excluded under the clause). The affected party must give notice to the other Party as soon as a force majeure occurs. A force majeure event does not excuse a party's non-performance in its entirety but could suspend it for the duration of the force majeure.[2]

Force majeure clauses are either generic clauses which provide for no party being liable in case of non-performance of contracts on account of events which are not in control of the parties or some contracts have detailed exhaustive clauses which list down what kind of events would constitute force majeure, its implications, process for invocation of force majeure, timelines for communication to the counterparty and so on.

In the present scenario, it is very important to analyze whether COVID-19 outbreak and consequential changes has had a direct impact on the business affairs of a party and whether the same are covered under the definition of 'force majeure' under a given contract.

The occurrence of a force majeure event protects a party from liability for its failure to perform a contractual obligation. The intention of a force majeure clause is to save the performing party from consequences of something over which it has no control. Force majeure clause is an exception to a situation resulting into breach of contract and it acts as safeguard for a performing party from liability on account of any non-performance of contractual obligations in the event of occurrence of certain events which may make it impossible for the party to perform its obligations.

COVID-19 outbreak may be treated as force majeure either under act of God, natural calamity, natural disaster, disease, epidemic outbreak, pandemic, etc. if these expressions and the like are covered within the definition of the term force majeure in a contract.

In the current scenario of uncertainty and disruption in business, many parties would consider invoking the force majeure clause (if present) in the contracts in order to absolve themselves from any liability as a result of inability to perform their contractual obligations. However, it is important to take into consideration the following aspects before invoking the force majeure clause to avoid disputes with the counterparties:

(a) Whether the reason for inability to perform contractual obligations is covered within the definition or the ambit of the force majeure clause in the contract;

(b) Assess the exact impact of COVID-19 outbreak on the business operations and ability to perform contractual obligations of the party intending to invoke occurrence of force majeure;

(c) Whether the inability to perform contractual obligations of a party is for a temporary period or for a long term;

(d) Whether there are any alternative mechanisms available for fulfilment of the said contractual obligations and has the party resorted to those alternatives;

(e) Whether the force majeure clause stipulates a mechanism for invoking the clause including any specific timelines in relation to communication to the counterparty;

(f) Whether the contract provides for any remedies or consequences on occurrence of force majeure event;

(g) Can there be any contractual alterations in terms of timelines, price adjustment, temporary suspension of contract etc. which can be discussed between both the parties to a contract.

After examining the above aspects, the party may decide to invoke force majeure clause with proper communication to the counter party along with suggestions on possible alterations to be made to the contractual obligations. It is important to note that the burden of proof that force majeure event has occurred rests on the party invoking force majeure clause and claiming relief.

In absence of force majeure clauses in contracts, parties can take help of the Section 32 and Section 56 of the Indian Contract Act, 1872 (**"Contract Act"**).

Section 32 of the Contract Act deals with enforcement of contracts contingent on an event happening, and it states:

"Contingent contracts to do or not to do anything if an uncertain future event happens cannot be enforced by law unless and until that event has happened.

If the event becomes impossible, such contracts become void."

[2]-Office Memorandum no. F. 18/4/2020-PPD dated February 19, 2020 issued by the Ministry of Finance, Department of Expenditure, Procurement Policy Division, Government of India

Section 56 of the Contract Act deals with agreement to do an impossible act, and it states:

"Contract to do act afterwards becoming impossible or unlawful.—A contract to do an act which, after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful..."

The doctrine of frustration of contract recognized under the English law has been statutorily recognized under the Indian law under Section 56 of the Contract Act.[3] However, it is important to note that Section 56 will govern the frustration of contract if the frustration as such is not covered in the contract itself. The statutory provision under Section 56 sets out a positive rule of law on supervening impossibility or illegality that renders performance impossible in its practical, and not literal sense.[4]

Thus, party may consider frustration of contract under Section 56 of the Contract Act, in the event there is no reference to force majeure clause in a given contract provided the party seeking protection should be able to show that the performance of contract has become impossible and the intent behind parties to enter into the said contract is frustrated. However, for frustration of contract under Section 56 of the Contract Act, the act of performance of contract must be impossible and not the act of taking benefits of the contract as such.

In the landmark judgement of **Energy Watchdog and Ors. vs. Central Electricity Regulatory Commission and ors.,**[5] the Supreme Court has observed as follows:[6]

"What was held was that the word "impossible" has not been used in the Section in the sense of physical or literal impossibility. The performance of an act may not be literally impossible but it may be impracticable and useless from the point of view of the object and purpose of the parties. If an untoward event or change of circumstance totally upsets the very foundation upon which the parties entered their agreement, it can be said that the promisor finds it impossible to do the act which he had promised to do.

It was further held where the Court finds that the contract itself either impliedly or expressly contains a term, according to which performance would stand discharged under certain circumstances, the dissolution of the contract would take place under the terms of the contract itself and such cases would be dealt with Under Section 32 of the Act. If, however, frustration is to take place de hors the contract, it will be governed by Section 56."

In the case of **Naihati Jute Mills** vs. **Khyaliram Jagannath**,[7] the Supreme Court while giving reference to an English case law observed that *"a contract is not frustrated merely because the circumstances in which it was made are altered. The courts have no general power to absolve a party from the performance of his part of the contract merely because its performance has become onerous on account of an unforeseen event."*

Performance of a contract is never discharged merely because it may become onerous to one of the parties.[8]

Determination of the applicability of force majeure clause in the event of a pandemic like COVID-19 is extremely fact specific and based on the wordings of the contract. In addition to the wordings used in the contract, practical aspects like actual impact on the business operations, commercial implications on parties involved will have to be assessed.

B. Material Adverse Effect

The material adverse effect or material adverse change (collectively "MAE") clause is typically a pre-agreed mechanism for allocation of risks amongst the parties followed by consequences. Generally, MAE clauses are present in investment agreements, financing agreements, construction and infrastructure related agreements. MAE clause consists of bifurcation of risks and details out on the responsibility of specific risks to be borne by each party. MAE clauses usually deal with occurrence of events which may have a materially adverse effect on the business, financial position, operations, assets, properties of a party and further resulting to adverse effect on the ability of the said party to complete the transaction or perform its obligations

[3]-1965 All LJ 689
[4]-Satyabrata Ghose vs. Mugneeram Bangur & Co.
[5]-2017 3 AWC2692SC
[6]-Observation on Satyabrata Ghose vs. Mugneeram Bangur & Co.
[7]-AIR 1968 SC 522
[8]-M/s Alopi Prasad & Sons Ltd. vs. Union of India 1960 (2) SCR 793

related to the said transaction.

MAE clauses also consist of certain exclusions from what would constitute material adverse effect on a party to the contract and its consequences on the other party. For instance, business risks arising out of the operations of a business are to be borne by borrower in case of financing agreements or promoters in case of investment agreements, whereas risks arising as a result of execution of agreements or risks arising due to general economic slowdown are to be borne by the lenders or investors, as the case may be.

Confirmation on no material adverse effect having occurred is often a condition precedent to closing of transactions involving acquisition of shares, fund-raising arrangements, financing arrangements and so on.

The important principle in case of MAE is to check whether a substantial harm is caused to the earning potential of a party in a durationally significant manner.

In the case of impact of COVID-19, the uncertainty involved around the duration and proportion of effect on an industry or sector still remains unknown. Hence, it is difficult to determine whether parties can sight COVID-19 as reason for MAE and walk away from contracts.

Similar to force majeure clause as discussed above, it will be important to analyze the contents/wordings of the MAE clause, the mechanism involved, the consequences under the contract upon occurrence of MAE, the obligations on parties on occurrence of MAE, practical aspects such as impact on business operations and commercials, remedies available to parties, etc. will have to be assessed prior to concluding whether COVID-19 outbreak can be treated as MAE under any given contract.

Accordingly, alternatives like re-negotiation of contracts to amend the timelines for performance, temporary suspension, adjustments to purchase price, allocation of risks, breakaway fee, etc. can be undertaken by parties involved.

C. Impact on commercial contracts

Commercial contracts entered into by corporates in the manufacturing sector seem to be largely affected due to the supply chain disruptions at many instances due to the nationwide lockdown implemented by the Government of India through its special powers under the Epidemic Diseases Act, 1897 and similar other statutes.

This has resulted in impossibility of performance or delay in performance of obligations by parties under their respective commercial contracts. All parties concerned will have to figure out the best possible way to keep the contract active by options like re-negotiation on the price agreed, extension of timelines for completion of contractual obligations, extension of credit period, revisions in product specifications and the like. Parties will face severe challenges in terms of their operations and financial status in cases where there is impossibility of performance due to lapse of time.

D. Impact on mergers and acquisitions (M&A) and private equity (PE)

M&A and fund-raising activity by PE investors is likely to be stalled or delayed at least for a short duration looking at the current economic scenario and the challenges faced by corporates. Group restructuring activities like amalgamation, demerger, etc. are also likely to be delayed owing to the fact that the courts are keen on hearing only urgent matters in light of the nationwide lockdown and travel restrictions.

The recent amendments[9] in foreign direct investment framework of India are set to have an impact on the cross-border investments in Indian companies and transactions involving investors from restricted countries may be stalled or delayed as a result of the newly introduced prior approval requirement.

Due diligence activity undertaken by investors would become more stringent as investors would want to ensure the target entities have complied with COVID-19 regulations issued by the Government from time to time. Moreover, preference will be given to virtual data rooms instead of the traditional physical due diligence activity.

Well drafted MAE clauses in the investment agreements or share acquisition agreements may give right to investors or purchasers to walk away from the transactions citing the reason for COVID-19 crisis resulting into a material adverse effect under the respective contracts.

Comprehensive representations and warranties would be demanded by purchasers and investors in order to cover all the risks associated with COVID-19 whereas sellers and promoters would insist on inclusion of

[9]-Press Note 3/2020 dated April 18, 2020 read with the Foreign Exchange Management (Non-Debt Instruments) Amendment Rules, 2020

knowledge qualifiers and materiality thresholds in the representations and warranties.

Special attention will be laid on drafting of clauses like force majeure, material adverse effect, consequences of material adverse effect in post COVID-19 scenario.

E. Impact on real estate transactions

Construction contracts are usually time bound contracts where parties are required to complete their contractual obligations in a time bound manner. However, delays in respect of completion of contractual obligations are expected as a result of lockdown, non-availability of labour and raw material due to supply chain disruption etc.

Parties may consider invoking force majeure clauses, however, whether COVID-19 and related effects would be covered under force majeure event can be determined on the wording of the said clause in the relevant agreements and force majeure cannot be blindly used as a weapon to avoid risk of liability as a result of inability of performance or delay in performance of contractual obligations by parties.

F. Other aspects of commercial contracts

(a) E-signing of contracts

In the unprecedented and unforeseen lockdown and restrictions on travel, execution of agreements by way of physical signatures has become impossible. Companies, shareholders, investors have resorted to e-signing of contracts. The Information Technology Act, 2000 ("IT Act") recognizes electronically signed contracts as valid, enforceable contracts.[10] Any agreements other than documents like negotiable instruments, trust deeds, will and contracts for transfer or sale of immovable property are covered under the scope of electronically executed documents in terms of the IT Act which are treated as equivalent to physical signatures for authentication of the said documents. E-signing under the IT Act means authentication of any electronic record by a party by means of electronic technique as prescribed under the IT Act which inter alia includes digital signature or Adhaar based e-signatures.[11]

Email acceptance of signature pages is another popular method for execution of contracts which is increasingly being adopted by various stakeholders.

(b) Stamping of contracts

While alternative modes for execution of agreements during this period have been adopted, stamping of contracts remains to be a challenge. Stamping of contracts in electronic manner is permissible in states like Maharashtra, wherein, payment of stamp duty and registration charges beyond a specific threshold[12] can be paid through the government revenue accounting system.[13] Payment of stamp duty of smaller value by way of franking or procuring physical stamp papers appears to be a difficult task in these times of lockdown and travel restrictions resulting in delay in execution of contracts.

Conclusion

While COVID-19 outbreak continues to affect lives of humans on a large scale with the number of casualties increasing on a daily basis, small, medium as well as large scale businesses and the economy in general are bound to have a significant adverse impact. COVID-19 outbreak is going to change the way of living and the manner of doing business all over the world. In these testing times, one may get to witness the survival of the fittest.

Corporates will be extremely cautious going forward about clauses like force majeure which till date were neglected or given less importance, typically just included as a part of boiler plate clauses in contracts. Greater attention will be directed towards use of technology, building infrastructure suitable for businesses to function even in difficult times. Post COVID-19, the world will definitely be a different place to live in.

2. Impact of regulatory moratorium given MCA to the Corporates

Unprecedented lockdown in India on account of COVID-19 outbreak has caused serious problems for small and medium scale enterprises. While companies are struggling to survive and keep their business running, it is indeed an additional burden to ensure timely compliance with laws and complete necessary filings along with payment of statutory fees. Focus on business

[10]-Section 5 and Section 10A of the IT Act
[11]-Section 2(ta) of the IT Act read with Schedule 2 of the IT Act
[12] -E-SBTR can be procured if the stamp duty amount is equal to or more than INR 5000
[13]-Maharashtra E-Payment of Stam Duty and Refund Rules, 2013
(http://igrmaharashtra.gov.in/SB_PUBLICATION/DATA/rules/STAMPS/4_e-Payment_Rules.pdf)

continuity is of prime importance for all stakeholders as the duration of the pandemic outbreak and its actual impact on the business is yet to be known.

The Ministry of Corporate Affairs ("MCA") in its attempt to provide leeway to corporates and other stakeholders in terms of compliance of mandatory provisions of the Companies Act, 2013 ("CA 2013") has by way of various circulars and notifications introduced relaxations in terms of certain regulatory compliances under CA 2013. The relaxations and moratorium periods provided are much needed for all corporates in these uncertain times (in light of lockdown and social distancing) which are causing a huge impact on the business activities of corporates and economic situation at large.

Summary of the relaxations introduced by the MCA are covered herein below along with analysis of their implications on corporates:

A. Relaxations in respect of board meetings

(a) Gap between two board meetings[14]

The time gap between tow board meetings has been extended by a period of 60 days for the next two quarters i.e. till September 30, 2020. This is a one-time relaxation provided by MCA which has increased the interval between two consecutive board meetings to 180 days from 120 days.[15]

(b) Conducting board meetings through video conferencing

By way of introduction of an amendment[16] to Rule 4 of the Companies (Meetings of the Board and its Powers) Rules, 2014, relaxation has been provided up to June 30, 2020 in respect of matters mandatorily required to be discussed and approved in physical meeting of board of directors to be allowed to be discussed and approved in board meetings held through video conferencing facility or any other audio-visual means in accordance with the said rules.[17]

(c) Meeting of independent directors[18]

Part VII (1) of Schedule IV to the CA 2013 requires independent directors of a company to hold at least one meeting without the presence of non-independent directors. Inability to hold such meeting of independent directors during the financial year 2019-20 will not be viewed as a violation. This relaxation is for the benefit of the companies who have independent directors on board who have not been able to hold such meetings.

B. Other relaxations and moratorium granted by MCA

(a) Members meetings through video conferencing[19]

The MCA has introduced a framework for conducting members meetings through video conferencing or other audio-visual means. Companies which cannot avoid conducting of general meetings on or before June 30, 2020 may follow the framework provided by MCA which consists separate actions list for companies which are required to provide e-voting facility and companies which are not required to provide e-voting facility.[20] It is important to note that the framework provided in the circular is applicable only incase of extra ordinary general meetings and not annual general meetings.

Clarifications in respect of passing of ordinary resolutions and special resolutions particularly in relation to manner and mode of issuing notices of general meetings, requirement for voting by show of hands, passing of certain resolutions by way of postal ballot, etc. have been released by MCA which address difficulties faced by corporates in implementing the framework for conducting general meetings of members through video conferencing and other audio-visual means.[21]

(b) Resident director requirement[22]

Each company is required to appoint at least one resident director i.e. a director who stays in India for a period of not less than 182 days during a financial year.[23] This requirement of minimum residency of at least one director has been relaxed for the financial year 2019-20 and will not be treated as a non-compliance. Companies which have foreign nationals appointed as resident directors to comply with minimum residency

[14]-General Circular No. 11/2020 dated March 24, 2020
[15]-Time gap between two board meetings should not be more than 120 days as per Section 173(1) of the CA 2013
[16]Sub-rule (2) to Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014 has been inserted vide Companies (Meetings of Board and its Powers) Amendment Rules, 2020 notified on March 19, 2020
[17]Rule 3 of the Companies (Meetings of Board and its Powers) Rules, 2014
[18]General Circular No. 11/2020 dated March 24, 2020
[19]General Circular No. 14/2020 dated April 8, 2020
[20]Unlisted public companies with less than 1000 members
[21]General Circular No. 17/2020 dated April 13, 2020
[22]General Circular No. 11/2020 dated March 24, 2020

requirement can benefit from this relaxation for the financial year 2019-20.

(c) Applicability of CARO deferred[24]

Companies (Auditors Report) Order, 2020 ("CARO"), a new format of reporting requirement in respect of various disclosure requirements to be made by the statutory auditors of company in their auditors report which was introduced by the MCA[25] was to be effective and implemented upon from the financial year 2019-20. However, the applicability, effective date and requirement for implementation of CARO has been deferred to financial year 2020-21.

(d) Moratorium in relation to filing of e-forms[26]

MCA has come up with a moratorium with no additional filing fees charged for any delay in filing of e-forms during the period between April 1, 2020 to September 30, 2020 irrespective of the actual due date for filing of such e-form. Additional fees in filing of e-forms is levied by the MCA in the event of any delay in filing of e-forms beyond timelines prescribed under the law. This moratorium will help reduce the financial burden on corporates and corporates will be able to file any documents, returns, etc. which are pending to be filed.

(e) Creation of deposit repayment reserve and debenture redemption reserve[27]

Companies which have accepted deposits are required to deposit at least 20% of the deposits maturing in the upcoming financial year in a separate bank account (deposit repayment reserve account) on or before April 30 of each year.[28] The due date for this deposit has now been extended till June 30, 2020. This appears to be a one-time relaxation provided by MCA applicable to current financial year (2020-21).

All companies having debentures maturing in the upcoming financial year are required to invest or deposit a sum of not less than 15% in respect of the debentures maturing during the year ending on March 31 of upcoming/next financial year, the debenture redemption reserve("DRR") account on or before April 30 in each year.[29] The due date for this deposit in the DRR in relation to the debentures maturing during the year ending on March 31 of the upcoming financial year has been relaxed and extended till June 30, 2020.

(f) Declaration of commencement of business[30]

Additional period of 180 days has been provided for newly incorporated companies to file the declaration for commencement of business which is required to be filed within 180 days from the date of incorporation of a company.[31] Therefore, a total period of 360 days is now available for companies to file this declaration of commencement of business.

(g) Holding of annual general meetings by companies with financial year ending on December 31, 2019[32]

A relaxation in terms of extension for holding annual general meetings within a period of 9 months from the closure of financial year by companies with financial year (other than first financial year) ending on December 31, 2019 has been introduced by way of which such companies will be able to hold their annual general meetings on any day up to September 30, 2020 and such holding of annual general meeting beyond a period of six months from the end of financial year shall not be viewed as a violation of the provisions of the CA 2013.[33] All references in relation to the due date of annual general meeting or the date on which the annual general meeting ought to have been held under the CA 2013 or the rules framed thereunder shall be construed accordingly.

(h) Relaxation in respect of filings under Section 124 and Section 125 of the CA 2013[34]

As a result of the lockdown, there are difficulties in completing the transfer of money which has remained

[23]Section 149 (3) of CA 2013
[24]General Circular No. 11/2020 dated March 24, 2020
[25]S.O. 849 (E) dated February 25, 2020 issued by the Ministry of Corporate Affair
[26]General Circular No. 11/2020 dated March 24, 2020
[27]General Circular No. 11/2020 dated March 24, 2020
[28]Section 73(2)(c) of the CA 2013
[29]Rule 18 of the Companies (Share Capital and Debentures) Rules, 2014
[30]General Circular No. 11/2020 dated March 24, 2020
[31]Section 10A of the CA 2013
[32]General Circular No. 18/2020 dated April 21, 2020
[33]Section 96(1) of the CA 2013 requires every company to hold annual general meeting within a period of 6 months from the end of each financial year and not later than 15 months from the date of last annual general meetings

unclaimed and unpaid for a period of seven years and undertaking filing of e-forms like IEPF-1, IEPF-2, IEPF-3, IEPF-4, IEPF-5 and IEPF-7. The MCA has clarified that the said forms (as applicable) can be filed by corporates without payment of any additional or late filing fees till September 30, 2020.

(i) Companies Fresh Start Scheme[35]

MCA has come up with a scheme known as Companies Fresh Start Scheme ("CFSS") for all defaulting companies for a fresh start by enabling belated filing of e-forms, returns (beyond timelines prescribed under the law) with normal filing fees instead of levy of additional fees for delayed filing. While enabling this belated filing, the MCA has excluded certain class of companies and categories of few forms like forms for creation of charge, forms for increase in authorized share capital etc. from the purview of CFSS.

Conclusion

The regulatory moratorium and relaxations in terms of compliance with provisions of CA 2013 and the rules framed thereunder are certainly a good step to reduce burden of compliances in this dire situation and will help corporates to focus on taking necessary measures to address the COVID-19 pandemic outbreak and the disruption in business activities caused due to the pandemic outbreak.

However, it is important to note that circulars issued by MCA are clarificatory in nature, provisions in the law (CA 2013 in this case) cannot be amended by way of issuance of circulars. In the case of , **Harrisons and Crossfield Ltd. vs. Registrar of Companies**,[36] the Kerala High Court while dealing with issue of whether a company can rely on circular if such circular is inconsistent with the statute, held: *"The directors were entitled to rely on the above advice, as honest and reasonable men, even if the same was not legally correct. They had only chosen to follow the path indicated by the Board, a higher authority in the hierarchy of company law administration, and for that, they should not be penalized.."*

Hence, one may take a view that corporates taking benefit of the relaxations provided by MCA under various circulars are technically in non-compliance with the relevant provisions of the CA 2013 (as few relaxations granted by the MCA for temporary period are not in conformity with CA 2013 or the rules framed thereunder) but the said non-compliance may not be viewed as violation of the provisions of the CA 2013 read with rules framed thereunder by the competent authorities like registrar of companies, regional director and so on as clarified in the circulars. Having said that, the relaxations provided under circulars may not eliminate the non-compliance as such (in few instances where applicable).

Therefore, while it is definitely for the benefit of corporates that the MCA has come up with certain relaxations for a temporary period, the corporates should be cautious while relying on the circulars specifically in instances where there is a possibility of the circulars being inconsistent with the CA 2013 and the rules framed thereunder.

34-General Circular No. 16/2020 dated April 13, 2020
35-General Circular No. 12/2020 dated March 30, 2020
36-1980 50 ComCas 426 (Ker)

Impact of epidemic on contracts and impact of regulatory moratorium given by MCA to the Corporates

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COVID-19 or Coronavirus outbreak has been one of the scariest and dreadful events we are currently witnessing not only in India but all over the globe. The World Health Organisation (WHO) declared COVID-19 as a 'pandemic'.[1] While the COVID-19 has deeply impacted the lives of the people around world by the number of deaths and infected patients increasing day by day but it has also brought the economies & economic operations to standstill. Social distancing being the only possible way to contain this pandemic, the Government of India[2] declared a nationwide lockdown explaining that it was the only way of breaking COVID-19 infection cycle, which commenced on March 25, 2020 to April 14, 2020 which was further extended until May 3, 2020. Due to the lockdown and rigorous restrictions on the movement of people of India, it created a precipitous impact on the commercial, business operations thereby impacting the contracts entered into by various persons. This research paper brings out the two important aspects:

A. The Impact of epidemic like COVID-19 on the contracts entered into by the Parties prior and post such scenarios.

B. The Impact of regulatory moratorium given by MCA to Corporate

A. The Impact of epidemic like COVID-19 on the contracts entered into by the Parties prior and post such scenarios.

Due to the lockdown and rigorous restriction of movements of the people in India it has led to disruption in the supply chain of non-essentials. The lockdown has virtually affected each and every industry and activity, to name a few: construction contracts, supply of goods and services contracts, leases to acquisitions contracts, etc. variety of contracts which are likely to get impacted is humongous. Hence the parties are not able to enjoy the very basis of entering such contracts or legitimately or unintentionally not been able to perform their contractual obligations. The resultant impact has been or may be witnessed that either parties of such commercial contracts may avoid performance, delay, interrupt, terminate, re-negotiate or cancel the contracts. In this context, it becomes imperative that whether epidemic or pandemic and the resultant lockdown can be considered as a "force majeure" or whether the 'doctrine of frustration' under the Indian Contract Act, 1972 (the Contract Act) shall apply.

Definition of Epidemic

Epidemic, which may be traced to the Greek 'epidḗmios'meaning within the country, among the people, prevalent (of a disease)"), may carry broader meanings, such as "excessively prevalent," "contagious", or characterised by widespread growth or extent. Pandemic comes from the Greek word pandēmos meaning of all the people, which itself is from pan- (all very) and demos meaning people.

Hence from the definition of pandemic and its declaration by the World Health Organisation, COVID-19 is an epidemic which was neither estimated, presumed or reasonable measures could have been taken for the contract entered and executed prior to such pandemic.

Meaning of Force Majeure & clause in the contract

In accordance with the Contract Act, there is no definition of the term 'force majeure' and it is also absent in its skeletal form in the Contract Act. The Black's Law Dictionary defines 'Force Majeure' as 'an event or effect that can be neither anticipated nor controlled. However, its doctrine can be traced from Section 56 of the Contract Act. Mc Cardie, J in *Lebeaupin v. Crispinhas*[3] given an account of what is meant by 'force majeure' with reference to its history. The expression 'force majeure' is not a mere French version of the latin expression vis major'. It is undoubtedly a term of wider import. Difficulties have arisen in the past as to what could legitimately be included in "force majeure". Judges have agreed that strikes, breakdown of machinery, which, though normally not included in 'vis major' are included in 'force majeure'. An analysis of rulings on the subject into which it is not necessary in this case to go, shows that where reference is made to 'force majeure', the intention is to save the performing party from the consequences of anything over which he has no control. This is the widest meaning that be given to 'force

[1]i.e. A disease prevalent over a whole country or the world.
[2]No. 40-3/2020-DM-I(A)
[3]Lebeaupin v. Crispin 1920 2KB 714

majeure' and even if this be the meaning, it is obvious that the condition about 'force majeure' in the agreement was not vague. The use of the word 'usual' makes all the difference, and the meaning of the condition may be made certain by evidence about a force majeure clause, which was in contemplation of parties.

Force Majeure is governed by the Indian Contract Act, 1872. In so far as it is relatable to an express or implied clause in a contract, it is governed by Chapter III dealing with contingent contracts and more particularly, Section 32 thereof. In so far as force majeure event occurs de hors the contract, it is dealt with by a rule of positive law under Section 56 of the Contract Act. Section 32 and 56 are set out herein:

Section 32 Enforcement of Contracts contingent on an event happening- Contingent contracts to do or not to do anything if an uncertain future event happens, cannot be enforced by law unless and until that event has happened. If the event becomes impossible, such contracts become void.

As per Section 56. Agreement to do impossible Act.- An agreement to do an act impossible in itself is void.

Contract to do act afterwards becoming impossible or unlawful.- A contract to do an act which, after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent unlawful, becomes void when the act becomes impossible or unlawful.

Compensation for loss through non-performance of act known to be impossible or unlawful. Where one person has promised to do something which he knew, or, with reasonable diligence, might have known, and which the promise did not know, to be impossible or unlawful such promisor must make compensation to such promise for any loss which such promise sustains through the non-performance of the promise.

Thus force majeure means an irresistible compulsion or superior strength which can neither be foreseen by the Parties at the time of execution of the contract or could be mitigated by reasonable acts thereby preventing the party to comply with the obligations agreed in the contract. Some of the typical examples of force majeure are acts of god, flood, war, riots, disaster, natural calamities etc.

Government of India on Epidemic as Natural Calamity

The Ministry of Finance, Government of India vide an Office Memorandum[4] has clarified and had brought attention to para 9.7.7 of the "Manual for Procurement of Goods, 2017" which is reproduced as under stating that the disruption of the supply chains due to spread of corona virus in China or any other country will be covered under the Force Majeure Clause (FMC) and that it should be considered as a case of natural calamity and FMC may be invoked, wherever considered appropriate and following the due procedure :

> "A Force Majeure (FM) means extraordinary events or circumstance beyond human control such as an event described as act of God (like natural calamity) or events such as a war, strike, riots, crimes (but not including negligence or wrong doing, predictable/seasonal rain and any other events specifically excluded in this clause.) An FM clause in the contract frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligations under the contract. An FM clause does not excuse a party's non-performance entirely, but only suspends it for the duration of the FM. The firm has to give notice of the FM as soon as it occurs and it cannot be claimed ex-post facto. There may be a FM situation affecting the purchase organisation only. In such a situation, the purchase organisation is to communicate with the supplier along similar lines as above for further necessary action. If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of FM for a period exceeding 90 (Ninety) days, either party may at its option terminate the contract without any financial repercussion on either side."

Invocation of Force Majeure under Contracts

a. Implied or Express term

Many contracts expressly provide for performance to be excused, if rendered impossible by unavoidable cause such as force majeure. When a force majeure event is relatable to an express of implied clause in the contract, it is governed by section 32 of the Contract Act and if the event occurs de hors the contract, it is dealt with by a rule of positive law under section 56 of the Contract Act.[5]

Where a reference is made to force majeure, the

[4]No. F.18/4/2020-PPD dated 19 February 2020
[5]Pollock & Mulla – The Indian Contract Act, 1872- 15th Edition

intention is to save the performing party from the consequence of anything over which he has no control. The language used in the contracts become of prime importance to interpret the same.[6] A force majeure clause, as such a stipulation is usually called, must be construed in each case with due regard to the nature and general terms of the contract, and in particular, with regard to the precise words of the clause. A force majeure clause shall be construed with close attention towards events which precede to follow it and with due regard to the nature and general terms of the contract. Therefore the words 'any other happenings' in such a contract must be given a construction of ejusdem generis, to engulf within its fold only such happenings and eventualities which are of the nature and type illustrated in the same clause with close attention to the nature of terms of the contract and would not reasonably be within the power and control of the party.

b. Scope of Force Majeure & duty to mitigate

Where reference is made to force majeure, the intention is to save the performing party from the consequences of anything of the nature stated in such clause, over and above which he has no control. Since the term is used in reference to all circumstances independent of the will of man, and which, it is not in his power to control, and such force majeure is sufficient to justify the non-execution of the contract. The expression force majeure has been held to have a more extensive meaning than act of god and to include things which are not normally included in the expression 'vis major' like strikes and break down of machinery, shortage of supply owing to war, war-time difficulty with shipping, refusal of export license. Inability owing to export restrictions to obtain goods at a contract poce was not a condition of force majeure, nor was failure of crop when other supplies were available, or the fact that the usual route was not open to shipping when alternative route was available.Thus, the scope and extend of a force majeure clause in the event of such a epidemic has to be assessed on the how the clause of force majeure is defined in the agreement as well as the jurisprudence and its application to a particular contract would have to be looked individually all over again at each action to discharge the contract or obligations.

c. Requirement of Notification

In the epidemics like COVID-19, the question arises, whether in the prevailing situation , the requirement of a force majeure be dispensed with, in case of an existing Government notification having the effect of an executive order prohibiting the movement of people and non-essential goods and service, which is essence becomes the law of land. Since it is a well settled position of law that a contract will be dissolved with legislative or administrative intervention has so directly operated upon the fulfilment of the contract for a specific work as to transform the contemplated conditions of performance.[7] However it would be ideal that the effect of the administrative intervention has to be viewed and interpreted in accordance with the language used in drafting of such force majeure clauses as if the parties have undertaken an absolute obligation regardless of the administrative changes, they cannot claim to be discharged. Ideally the clause does mention of the notification to the other party and the mode of communication of such notice like email, courier etc. Hence in the epidemic scenario like the COVID-19, notification to the other party in the view of the author is must to the extent practicable due to the restrictions in place, as if the notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, it is liable for damages resulting from such non-receipt and non-fulfilment of the obligations under the contract.

d. Relevant period for the Majeure Event

In case of fire, flood etc. it is difficult for the parties to ascertain whether what would be the relevant period for claiming the force majeure. As there are after effects in such a case, example if the floods have caused the damage to the leased property then the restoration of such damage until it becomes fit for use is also considered in such cases of invocation of force majeure. However, in epidemics leading to lockdown, the actual period may begin on the date of announcement by the Government of India of the lockdown for containment of COVID-19 till the time such restriction continues and the parties are unable to fulfil the obligations can be the

[6]Podar Trading Co. Ltd, Bombay v. Francois Tagher, Barcelona, (1949) 2 KB 227
[7]MD Army Welfare Housing Organisation v. Sumangal Services: (2004) 9 SCC 619

relevant period for enforcing the provision of force majeure.

e. Burden of Proof

The person alleging that the contract has become impossible or that force majeure conditions exits and for how long, must prove it. Moreover, the burden of establishing that the frustration is self-induced, or the neglect or default of the party pleading frustration, lies on the other party.

f. Obligations of Parties

The ideal clauses pertaining to Force Majeure specify clearly the extent to which each party is required to perform its obligations in case a Force Majeure event has been triggered and the resultant consequences of such invocation of force majeure event. The language of the force majeure clause will determine the remedies available to the parties. Some contracts may provide for termination of the contract upon the happening of the force majeure event for a particular period like 60-90 days and certain contracts may require to put on hold the payment obligations until the force majeure event is resolved. Some contracts may provide for limitations in time after which either party may terminate the contract if the force majeure event still persists.

In Case of absence of Force Majeure in the contracts

The clause force majeure was typically looked as a boilerplate clause until recently and such clauses were neither debated or negotiated. It might be the scenario that some contracts may not at all have the clause of force majeure. So, the pertinent question is whether the party which is unable to perform its obligations due to or arising from Covid-19, may rely on the remedy under Section 56 of the Indian Contract Act 1872. However as discussed earlier the Section 56 of the Contract Act provides for the impossibility of performance after the execution of a contract. The section states that a contract to do an act which, after the contract is made, becomes impossible, or, by reason of some event which the party could not prevent, will be void. Here it is pertinent to emphasize the word 'impossible' to perform. The Indian courts have considered 'impossibility' from the terms of practical feasibility. 'The impossibility contemplated by s. 56 is not confined to something which is not humanly possible. If the performance of a contract becomes impracticable or useless having regard to the object and purpose of the parties then it must be held that the performance of the contract became impossible.[8] Further, the section provides that such a contract becomes void. Hence, it will have to be ascertained whether it was 'impossible' for the party to perform the obligations under the contract as a result of the Covid-19. In the view of the author, in the present epidemic COVID-19 scenario, the contracts in general sense cannot be impossible, though they may get delayed, the parties can be saved from paying the liquidated damages in case of time bound contracts, pricing may be increased, difficulties may pose to fulfil the obligations under the contract, but proving the term "impossible" and thereby the doctrine of frustration may not be possible in most of the cases.

Material Adverse Effect & Mergers & Acquisitions

The meaning of the term 'Material Adverse Effect' has to be derived based on the underlying nature of the transaction where it has been used and is often used interchangeably with Material Adverse Change. The term is used to refer to an 'occurrence, event or change in condition which is or reasonably could affect the ability of parties to consummate the transaction'. Generally, in case of an M&A transaction or financing transactions, the term is used as a material threshold to measure the negative effect of some event on the target business/company. The scope of 'Material Adverse Effect', including its exceptions, depends on the nature of the transaction, the industry/ sector, the market conditionalities etc. and will vary. In the event a party is intending to consider triggering a Material Adverse Effect clause on account of Covid-19, the burden will be on such a party to prove that the pandemic has materially affected its performance of the transaction or obligation. It is also advisable for the parties to a contract to enter into mutual negotiations and look at alternative remedies (such as price adjustments, limitation of liability etc.) before initiating termination of the arrangement.

Discharge of Contract by Impossibility or Frustration & Indian Jurisprudence

A force majeure clause cannot be implied in any contract under the Contract Act. In order to avail the remedies, the contract should expressly provide for and the

[8]Sushila Devi And Anr vs Hari Singh And Ors 1971 AIR 1756

protection availed will depend upon the language of such clauses or it should lead to the doctrine of impossibility to make it impossible to act. A contract will be discharged by subsequent or supervening impossibility in any of the following ways:

a. Where the subject-matter of the contract is destroyed without the fault of the parties, the contract is discharged.

b. When the contract is entered into on the basis of the continued existence of a certain state of affairs the contract is discharged if the state of things changes or ceases to exists.

c. Where the personal qualifications of a party are the basis of the contract, the contract is discharged by the death or physical disablement of the party.

[9]Prior to decision in *Taylor v. Caldwell*,[10] the law in England was extremely rigid. A contract had to be performed, notwithstanding the fact that it had become impossible of performance, owing to some unforeseen event, after it was made, which was not the fault of either of the parties to the contract. This rigidity of the common law in which the absolute sanctity of contract was upheld was loosened somewhat by the decision in Taylor v. Caldwell in which it was held that if some unforeseen event occurs during the performance of the contract which makes it impossible of performance, in the sense that the fundamental basis of the contract goes, it need not be further performed, as insisting upon such performance would be unjust.

The law in India has been laid down in the seminal decision of Satyabrata Ghose v. *Mugneeram Bangur & Co*. [11]The second para of Section 56 of the Contract Act has been adverted to, and it was stated that this is exhaustive of the law as it stands in India. What has held was that the word impossible has not been used in the Section in the sense of physical or literal impossibility. The performance of an act may not be literally impossible but it may be impracticable and useless from the point of view of the object and purpose of the parties. If an untoward event or change of circumstance totally upsets the very foundation upon which the parties entered their agreement, it can be said that the promisor finds it impossible to do the act which he had promised to do. It was further held that where the Courts find that the contract itself either impliedly or expressly contains a term, according to which the performance would stand discharged under certain circumstances, the dissolution of the contract would take place under the terms of the contract itself and such cases would be dealt with under Section 32 of the Contract Act. If, however, frustration is to take place de hors the contract, it will be governed by Section 56 of the Contract Act.

In Alopi Parshad & Sons Limited v. Union of India[12] the Hon'ble Supreme Court of India held that after setting out Section 56 of the Contract Act, held that the Act does not enable a party to a contract to ignore the express covenants thereof and to claim payment of consideration, for performance of the contract at rates different from the stipulated rates, on a vague plea of equity. Parties to an executable contract are often placed, in the course of carrying it out, with a turn of events which they did not at all anticipate, for example, a wholly abnormal rise or fall in prices which is an unexpected obstacle to execution. This does not itself get rid of the bargain they have made. It is only when a consideration of the terms of the contract, in the light of the circumstances existing when it was made, showed that they never agreed to be bound in a fundamentally different situation which had unexpectedly emerged, that the contract ceases to bind. It was further held that the performance of a contract is never discharged merely because it may become onerous to one of the parties.

Similarly, in *Nihati Jute Mills Limited v. Hyaliram Jagannath*,[13] the Hon'ble Supreme Court of India went into the English law on frustration in some detail, and then cited the celebrated judgment of Satyabrata Ghose v. Mugneeram Bangur & Co.[14] Ultimately the Court concluded that a contract is not frustrated merely because the circumstances in which it was made are altered. The Courts have no general power to absolve a party from the performance of its part of the contract

[9]Energy Watchdog v. Central Electricity Regulatory
[10](1861-73) All ER Rep 24
[11]1954 SCR 310
[12]1960 (2) SCR 793
[13]1968 (1) SCR 821
[14]1954 SCR 310

merely because its performance has become onerous on account of an unforeseen turn of events.

It has also been held that applying the doctrine of frustration must always be within narrow limits. In an instructive English Judgment namely, Tsakiroglou & Co. Limited v. Noblee Thorl GmbH,[15] despite the closure of Suez Canal, and despite the fact that the customary route for shipping the goods was only through the Suez Canal, it was held that the contract of sale of groundnuts in that case was not frustrated, even though it would have to be performed by an alternative mode of performance which was much more expensive, namely, that the ship would now have to go around the Cape of Good Hope, which is three times the distance from Hamburg to Port Sudan. The freight for such journey was also double. Despite this, the House of Lords held that even though the contract had become more onerous to perform, it was not fundamentally altered. Where performance is otherwise possible, it is clear that a mere rise in freight price would not allow one of the parties to say that the contract was discharged by impossibility of performance.

In the celebrated Sea Angel case[16] the modern approach to frustration is well put, and the same reads as under:

"In my judgment the application of the doctrine of frustration requires a multi-factorial approach. Among the factors which have to be considered are the terms of the contract itself, its matrix or context, the parties knowledge, expectations, assumptions and contemplations, in particular as to risk, as at the time of the contract, at any rate so far as they have ascribed mutually and objectively, and then the nature of the supervening event, and the parties reasonable and objectively ascertainable calculations as to the possibilities of future performance in the new circumstances. Since the subject matter of the doctrine of frustration is contract, and the contracts are about the allocation of risk, and since the allocation and assumption of risk is not simply a matter of express or implied provision but may also depend on less easily defined matters such as the contemplation of the parties, the application of the doctrine can often be a difficult one. In such circumstances, the test of radically different is important; it tells us that the doctrine is not to be lightly invoked; that mere incidence or delay or onerousness is not sufficient; and that there has to be as it were a break in identity between the contract as provided for and contemplated and its performance in the new circumstances."

Thus Section 56 is exhaustive and it is not permissible for the Courts to travel outside the provisions.

Singapore Model

With the rising commercial, business transactions issues arising due to the COVID-19 scenario, it is definitely lead to complexities in the transactions, when the business are suffering losses and the burden on judiciary might be tremendous. Also, the litigation can lead to further losses and rise in expenses with the scrutinizing and post mortem of the force majeure clauses in various contracts. In the light of such a scenario, it was interesting to read an Act by Singapore named COVID-19 (Temporary Measures) Act 2020[17] which aims to provide temporary measures, and deal with other matters, relating to COVID-19 pandemic and to make a consequential amendment to the Property Tax Act. This legislation aims at providing single stop window for all the complex matters of contract, financially distressed individuals, companies act, property tax etc. The act defines various contracts like scheduled contracts, event contracts, tourism related contracts, supply contract and also provides temporary relief from actions for inability to perform scheduled contracts. The law provides the additional relief for inability to perform the construction or supply contracts etc., the manner in which liquidated damages has to be calculated etc.

Such law serves as a binding force on the contracts irrespective of the language used in the contracts and the burden of disputes, litigation and arbitration can save the economy.

Conclusion on Part A:

It is worth noting that the term 'force majeure' has gained a tremendous attention of the parties to any contracts. In the light of this current pandemic, the Corporate Counsel and Company Secretaries need to revisit the important contracts, their obligations, interplay of Section 32 and 56 of the Contract Act and how the Companies can avail the remedies under the clause of Force majeure and its implications. If the contracts have express provisions on force majeure then

[15] 1961 (2) All ER 179
[16] 2013 (1) Lloyds Law Report 569
[17] No. 14 of 2020

the parties can rely on the same and give the effect of it. However, in absence of it, the doctrine of impossibility or frustration would be hard to prove and to seek for discharge of contract. The ideal way to relook at the situation is also to negotiate with the opposite party and try to find a amicable solution to avoid jeopardising the long-standing contractual relationship with the other party.

B. The Impact of regulatory moratorium given by MCA to the Corporate & MCA's initiative of introducing 'Companies Fresh Start Scheme

The MCA has issued several Circulars and enabled the companies and LLPs in India in taking necessary measures to address the pandemic COVID-19 threat to the Corporates in India. MCA has attempted to resolve the issues relating to the economic disruptions caused by COVID-19 and thereby reduced the compliance burden and other risks of non-compliance of the risks. Following is a brief analysis and summary of the MCA's initiatives:

1. Introduction of Companies Fresh Start Scheme (CFSS – 2020): The MCA introduced this scheme for giving an opportunity to the defaulting companies and to enable them to file the belated documents in the MCA-21 registry. The objective of the MCA is to condone the delay in filing the documents, returns, e-Forms with the Registrar, in so far as it relates to charging of additional fees, and granting of immunity from launching of prosecution or proceedings for imposing penalty on account of delay associated with certain filings. According to the said scheme, only normal fees for filing of documents in the MCA-21 registry will be payable in such case during the currency of the scheme. The Scheme also gives an opportunity to the inactive companies to get their companies declared as 'dormant companies' under section 455 of the Companies Act, by filing a simple application at a normal fee. The said provision enables inactive companies to remain on the register on the register of the companies with minimal compliance requirements. Readers may refer to MCA Circular No. 12/2020 dated March 30, 2020 for details of the scheme.

2. Board Meeting through video conferencing or audio visual means: The MCA has amended the Companies (Meetings of Board and its Powers) Rules, 2014 and has permitted board of directors to discuss and deliberate the following matters in their meeting through video conferencing or other audio visual means: (i) Approval of the annual financial statements, (ii) Approval of the Board's Report, (iii) Approval of the prospectus, (iv) Audit Committee Meetings for consideration of financial statement including consolidated financial statement, if any, to be approved by the Board under sub-section (1) of section 134 of the Act and (v) Approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover. Such relaxation is available from March 19, 2020 to June 30, 2020.

3. Relaxation for the intervals between the Board Meetings

As per Section 173 (1) of the Act, every company needs to hold minimum number of four meetings of its Board of Directors every year and that two consecutive board meetings of the Board shall not have an interval of not more than 120 days. However, by this Circular such period of 120 days has been further extended by 60 days so totalling to 180 days. Hence a one-time relaxation has been provided that the gap or interval between two Board meetings of the Board can be upto 180 days instead of 120 days. So if a meeting of the Board of Directors of a Company was held on January 01, 2020, the meeting should have been held by April 30. However, applying the relaxation now it can be held by June 29, 2020. However, such gap is permitted only till September 30, 2020, since it is a one-time relaxation.

4. CSR funds for COVID-19: With an objective to promote the companies to spend their CSR funds for COVID-19, the MCA has clarified to include the promotion of health care, including preventive healthcare, sanitation and disaster management activities as a part of the Schedule VII to the Act.

5. Applicability of CARO

As per the MCA Notification the Companies (Auditor's Report) Order, 2020 was made to be effective from the financial year 2019-2020. Under the said Order, the auditors had to report and present their report as per the same for the audited financial statements for the year ended 2019-2020. However, this reporting has been postponed now to the financial year 2020-2021. The amendment will. significantly ease the burden on companies and the appointed statutory auditors.

6. Meeting of Independent Directors

In accordance with the Schedule IV of the Act, per para VII (1), Independent Directors are required to hold at least one meeting without the attendance of non-independent directors and members of the management. However, the financial year 2019-2020, the relaxation has been provided that if the independent directors of a company have not been able to hold such a meeting, the same shall not be viewed as violation. However, MCA has clarified that the independent directors may share their views amongst themselves through phone, or email or any other mode of communication, if they deem it necessary.

7. Deposit Repayment Reserve

In accordance with the Section 73 (2) (c) of the Act read with the Companies (Acceptance of Deposits) Rules, 2014, the Companies accepting deposits should deposit on or before 30th day of April each year, a sum of not less than 20% of the amount of its deposits maturing during the following financial year which shall be kept in a scheduled bank account named as deposit repayment reserve account. By the MCA notification, such requirement is now required to be complied by June 30, 2020.

8. Relaxation on maturing debentures

In accordance with Rule 18 of the Companies (Acceptance of Deposits) Rules, 2014 the Company is required to invest or deposit 15% of amount of debentures maturing in specified methods of investments or deposits before April 30. By the MCA notification, such requirement is now required to be complied by June 30, 2020.

9. Relaxation on declaration of commencement of business

Newly incorporated companies are required to file a declaration for Commencement of Business within 180 days of incorporation under section 10A of the Act. MCA has provided an additional period of 180 more days is allowed for this compliance.

10. Minimum residency requirement for the resident director

MCA has clarified that non- compliance of minimum residency in India for a period of at least 182 days by at least one director of every company, under Section 149 of the Act, shall not be treated as a non-compliance for the financial year 2019-2020.

Conclusion on Part B

It is important that the Ministry of Corporate Affairs has played a significant role in easing the compliance burden on the Corporates when they already facing the difficulties on the business side, human resources and finance. However, a consolidated approach would definitely serve a purpose than issuing circulars intermittently. A holistic approach for at least a year would definitely give the Corporate world visibility and reduced burden, since the pandemic like COVID-19 in the current scenario does not look to end soon.

Impact of epidemic on contracts and impact of regulatory moratorium given by MCA to the Corporates

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Abstract:

In view of the current pandemic situation declared by the World Health Organisation, the Corporates are in a hustle to identify the risks that they might face after the lockdown period. In India, the service sector accounts for 53.66% of total India's GDP whereas on the other hand the contribution from industrial sector is 29.02% of the total GDP. The current lockdown has not just affected the health of the country but has also affected the financial status and growth of the nation. India is a nation with approximately a population of 135 crores. With this huge population and almost everyone entering into some or the other kind of contract, the Contract Act has gained importance since 1872. Also, the provisions will be quite tested post lockdown period.

History of Contract Act

The Indian Contract Act was drafted originally by the third Indian Law Commission in the year 1861 in England. The Indian Contract Bill tried to define the laws relating to Contracts, Sale of movable properties, Indemnity, Guarantee, Agency, Partnership, and Bailment.

The Act came into effect in 1872 but soon afterwards a need for amendment was felt and it repealed section 76 to 123 dealing with the sales of goods act and separate legislations were enacted called 'Sales of Goods Act 1930' to govern that area. Also, section 239 to 266 dealing with partnership was repealed and new legislation was enacted called 'Indian Partnership Act 1932'.

As a developing nation, India has been supporting Corporates to enter into various contracts like foreign collaboration, sale contract, purchase agreements etc to bring technology and skills into India. The Corporates enter into contract/agreement with not only their staff but also with partners, Government authorities, banks, suppliers, creditors, debentureholders, etc thereby making themselves liable to exercise the contract as per the terms agreed. Contract is like an assurity to the Corporates that the other party will fulfill the promise and that is how contracts have been working till date.

While studying Contract Act, 1872 we have come across a very simple yet very important clause i.e " Force Majeure" that are included in the contracts to provide protection to the parties. Considering the pandemic situation, businesses have been affected and this has in return affected the operations leaving the corporates in a difficult situation. This clause is a game changer for companies today for those who have entered into contracts.

Force majeure:

As per Black's Law Dictionary Force Majeure means "An event or effect that can be neither anticipated nor controlled."

This clause provides protection to the parties by reducing their risk in case of non-fulfillment of promise by either of the parties in the events such as war, act of god, pandemic, etc. This cause prevents performance in case of uncontrollable events.

Exception to the Force Majeure clause in contracts:

This clause provides protection to the parties from their liability under the contract signed by them. However, it is to be noted that this clause only suspends the performance for the duration of Force Majeure and does not necessarily provide an excuse for non-performance of the promise. This clause only includes events which are beyond the control of either or both of the parties and hence this clause won't protect the party or parties to the contract in case of:

1. negligence or malfeasance of a party which might adversely affect the obligation of the other party.
2. usual and natural consequences of external forces.

eg. an outdoor public event being abruptly called off.

Case 1- If the cause for cancellation is ordinary predictable strike, this is most probably not force majeure.

Case 2- If the cause is an earthquake that damages the venue or makes the event hazardous to attend, then this almost certainly is force majeure, other than where the venue was on a known earthquake prone area.

3. Any circumstances that are specifically contemplated in the contract

EFFECTS OF NON INCLUSION OF FORCE MAJEURE CLAUSE IN CONTRACTS

1. Party will be under obligation to fulfill its promise

2. No protection to party during such uncontrollable events.

3. Company/Party will have to identify if Section 56 can be applied in order to protect the party

> ***Note:*** *The Force Majeure clause includes a lot of events like flood, war, earthquake, etc and at the end it reads as "and such other acts or events that are beyond the control of parties". This particular line provides huge scope for interpretation and also provides protection in times of uncertain events like this COVID-19 situation. If this particular line is not mentioned then the scope of this clause becomes narrower and hence, the company/party needs to seek for protection under section 56 of the Contract Act, 1872.*

SECTION 56 OF THE CONTRACT ACT, 1872:

This section deals with agreements that are related to impossible acts. An agreement to do impossible act is void. When a contract is made before and the act becomes impossible or unlawful after executing the contract then such contract becomes void. Under any circumstance where the promisor could not keep the promise by reason or event that the promisor could not prevent, then such contract shall become void. This section is known as " Doctrice of frustration"

Difference between "Force Majeure" and "Doctrine of Frustration"

Major observations:

Case 1- What if a Force Majeure event is not specifically covered under a contract?

Solution: The affected party can claim frustration of a contract.

Case 2- What if the event is specifically covered under the Force Majeure clause?

Solution: The affected party cannot claim frustaration of a contract.

Conclusion: Post COVID-19 lockdown, a lot of cases related to breach of contract may be filed. This is a time where the Company Secretary's and lawyer's drafting as well as interpretation skills will be judged. As a Company Secretary we should with great consciousness check the Force Majeure clause; whether it covers the COVID-19 event. And if the Force Majeure clause is ambigious then the Company Secretary/lawyers should claim frustration of contract under section 56 of Indian Contract Act, 1872

IMPACT OF REGULATORY MORATORIUM GIVEN BY MCA:

The Ministry of Corporate Affairs immediately after declaration of pandemic by the World health oragnisation and intimation of the same by the Modi Government, has taken amidst decisions in order to protect businesses and Companies to check their readiness and spread awareness about this serious

Sr. No	Force Majeure	Doctrine of Frustration
1	It is included as a clause in the contracts	It is Covered under Sec 56 of the Indian Contract Act, 1872
2	It indentifies exhaustive list of events/circumstances prior to the execution	Here, performance of obligation under the contract is linked to occurence of event subsequent to the execution of contract
3	It suspends the performance for the duration of Force Majeure and does not necessarily provide on excuse for non-performance	Contract become void and all obligations of parties cease to exist

problem of COVID-19. This situation has brought a new culture in India i.e work from home. Western countries like USA, Canada, UK, etc have an inculcated culture of working from home but this concept is new to India. COVID-19 situation has made people in India aware that majority of Companies do not need porsche offices, huge infrastructure facilities and huge space to carry on their business. This pandemic situation is going to change the structure as well as the ways of doing business. MCA has been active like never before and is coming with new circulars, clarifications and is providing support to the Corporates that are facing problem. In this topic we are going to discuss about the changes brought by MCA and its impact on Corporates as well as MCA.

1. Companies Affirmation of Readiness towards COVID-19

The MCA on March 23, 2020 deployed a new web form in the name "COVID-19" form to check whether the Companies are ready to face the situation of Corona Virus. This particular form is a simple web form with very few information boxes where-in a Company/firm needs to confirm whether they can implement "work from home" policy or not.

Key points:

- ❖ It is a simple web form deployed on 23.03.2020 with minimum fields and can be filed from anywhere.
- ❖ No Payment of Fee
- ❖ No DSC is required
- ❖ Available as a 'Post-login' service for both 'Registered' as well 'Business User'
- ❖ Applicable for all Indian companies/ Foreign companies/ LLPs/ Foreign LLPs
- ❖ Any one of the current Authorized Signatories of the Company/LLP can submit the form online
- ❖ Only OTP verification
- ❖ No SRN is generated
- ❖ System based acknowledgment shall be sent to:

a. Email ID of the respective Company/Foreign Company/ LLP or Foreign LLP

b. Email ID of the Authorized Signatory who is providing the affirmation

c. Email ID of the FO user who is submitting the affirmation

Major observations:

According to MCA, this form was merely to spread awareness and check the readiness of the Company but in the view of Corporates/firms and professionals this form was unnecessary compliance brought by MCA as this compliance could have been complied even after the lockdown period. In this current situation where a Company has lot of group Companies it has become a difficult task to comply with this particular compliance for all the Companies leading to unnecessary work load and wastage of time. Also, the COVID-19 form does not seem to fulfill any purpose except creating awareness. This COVID-19 form is just a waste of time for Corporates as well as for MCA as it is a difficult task to track all these forms and check them as majority of the staff are unavilable due to lockdown.

2. CLARIFICATION ON SPENDING ON CSR FUNDS FOR COVID-19

The Ministry through its general circular no: 10/2020 dated March 23, 2020 with due respect to declaration of Pandemic by World Health Organisation (WHO) has clarified that spending CSR funds on COVID-19 activities is an eligible CSR activity . The Ministry further clarified that the funds can be utilised for various activities related to COVID-19 under items nos (i) and (xii) of Schdeule VII relating to promotion of health care, including preventive health care and sanitation and disaster management. Futher, as per General Circular No 21/2014 date June 18, 2014, items in Schedule VII are broad based and may be interpreted liberally for the purpose.

Another General Circular No: 15/2020 dated April 10, 2020 was issued by the Ministry clarifying whether contribution made to PM CARES Fund and other funds shall be considered to be eligible CSR expenditure. Given below is a table giving clear picture about the eligible CSR expenditure

Sr. No	Name of the Fund	Whether eligible CSR expenditure or not?	Explanation
1	PM CARES fund	Yes	Contribution made to 'PM CARES Fund' shall qualify as CSR expenditure under item no (viii) of Schedule VII of the Companies Act, 2013 and it has been further clarified vide Office memorandum F. No. CSR-05/1/2020-CSR-MCA dated 28th March, 2020.
2	Chief Ministers Relief Fund	No	'Chief Minister's Relief Fund' for COVID-19' is not included in Schedule VII of the Companies Act, 2013 and therefore any contribution to such funds shall not qualify as admissible CSR expenditure.
3	State Relief Fund	No	State Relief Fund for COVID-19' is not included in Schedule VII of the Companies Act, 2013 and therefore any contribution to such funds shall not qualify as admissible CSR expenditure
4	State Disaster Management Fund	Yes	Contribution made to State Disaster Management Authority to combat COVID-19 shall qualify as CSR expenditure under item no (xii) of Schedule VII of the 2013 and clarified vide general circular No. 10/2020 dated 23rd March, 2020.
5	Payment of salary/wages to employees and workers, including contract labour, during the	No	Payment of salary/ wages in normal circumstances is a contractual and statutory obligation of the company. Similarly, payment of salary/ wages to employees and workers even during the lockdown period is a moral obligation of the employers, as they have no alternative

3. SPECIAL MEASURES UNDER THE COMPANIES ACT, 2013 AND LLP ACT, 2008 IN VIEW OF COVID-19

The Ministry of Corporate Affairs through its General Circular no- 11/2020 dated March 24, 2020 has issued special measures under Companies Act and LPP Act, 2008 in order to reduce the burden of compliances of the Companies. The special measures are as follows:

Sr. No	Original provision	Temporary Relaxation
1	As per section 173, the Board is required to hold atleast 4 Board meetings in a Financial year and the gap between two Board meetings shall not be more than 120 days	Now, extension of 60 days till next quarter is given. The Board can now extend to 180 days instead of 120 days.

Sr. No	Original provision	Temporary Relaxation
2	Companies (Auditor's Report) order, 2020 was notified to be applicable from Financial Year 2019-2020	Will now be applicable from Financial year 2020-2021
3	As per Schedule IV, Para VII(i), the Independent Directors of the Company are required to hold atleast one meeting of Independent Directors in a given Financial year.	If, the Independent Directors for any given reason have failed to conduct a meeting of Independent Directors in this Financial year then the same shall not be considered as non-compliance.
4	As per section 73(2)(c), a Company is required to create the deposit repayment reserve of 20% of deposits maturing during Financial year 2020-21 before 30/04/2020	The same shall now be allowed to be complied with till 30/06/2020
5	As per Rule 18 of the Companies (Share Capital and Debentures) Rules, 2014 to invest or deposit atleast 15% of the amount of debentures maturing in specific methods of investments or deposits before 30/04/2020	Same shall be complied with till 30/06/2020
6	As per section 10A of Companies Act, 2013 a declaration of commencement of business is to be filed by newly incorporated Company within 180 days from the date of incorporation meetings shall not be more than 120 days	Additional 180 days are allowed for this compliance. 120 days
7	As per section 149, atleast one director of the Company shall be resident of India i.e his/her minimum stay in India shall not be less than 182 days	Shall not be treated ad non-compliance if his/her stay is less than 182 days
8	In respect of any document, return, statement, etc required to be filed in MCA21 Registry, no additional fees shall be charged for late filings during a moratorium period from 01/04/2020 to 30/09/2020 irrespective of its due dates.	
9	The transfer of money remaining unpaid or unclaimed for a period of 7years in terms of the provisions of the Section 124(5) and transfer of shares under section 124(6) of the Act read with IEPFA (Accounting, Audit, Transfer and Refund) Rules can now be made by filing IEPF e-forms as the case maybe without any additional fees till 30th September, 2020.	
10	Directors/DIN holders having their DIN deactivated due to non-filing of form DIR-3 KYC and the Companies whose compliance status has been marked as “Active non-compliant” due to non filing of e-form 22A have been granted another opportunity to become compliant once again between 01/04/2020 to 30/09/2020 without any additional fees.	

Benefits of Special Measures to Corporates:

- Opportunity to defaulting Companies to clear their name from defaulting Companies list
- Cost savings as no additional fees is required
- No pending non-compliances and so the Company can focus more on business
- Companies can now invest the money for other
- activities that would otherwise be spent as
- additional fees for late filing
- Saves time from prolonged litigations
- Increase in financial profit and reduction in contingent liablity
- **Note:** Except the COVID-19 web form all other measures taken by MCA have proven to be beneficial for the Corporates.

Benefits of Special Measures to MCA

- Withdrawal of appeal/applications/petitions of
- compounding of offences or to attain the status of dormant Company
- Companies will be fully compliant and will be aware about the amendments and importance of complying with the provisions of the Act.
- Saves time of MCA from unnecessary litigations and proceedings
- Optimum utilisation of staff from NCLT, NCLAT, courts, Registrars, etc

Note: Waiving off additional fees is a bold step taken by MCA as it is going to have a great financial impact on the ministry. MCA has let go of the income which would otherwise be recovered from non-compliant Companies in the form of additional fees and this is indeed a very generous step taken by MCA thats shows that the Ministry cares for its people.

COMPANIES FRESH START SCHEME, 2020

The Ministry of Corporate Affairs through its General Circular no: 11/2020 dated March 24, 2020 has decided to take certain alleviative measures by providing an opportunity to the defaulting Companies to make a fresh start on a clean slate through its "Companies Fresh Start Scheme, 2020"

In view of the annual statutory compliances to be complied by the Companies, the Ministry has decided to grant a one-time opportunity to the Companies to enable them to complete their pending compliances by filing necessary documents with MCA without any additional fees. For the same the Company shall apply for "immunity certificate"

Note: Immunity shall be provided only to the extent of prosecution and proceedings pertaining to any delay associated with filings of belated documents. Any consequential proceedings involving interests of any shareholders/directors/KMP would not be covered by such immunity.

Withdrawl of Appeal:

The defaulting Company shall before making an application for immunity certificate, withdraw an appeal filed against any notice issued or complaint filed or any order passed by Court or Adjudicating authority regarding violations of provisions under the Companies Act, 1956 or Companies Act, 2013 as the case may be.

SPECIAL MEASURES FOR CASES WHERE THE ORDER OF THE ADJUDICATING AUTHORITY WAS PASSED BUT THE APPEAL COULD NOT BE FILED:

A. Where the last date for filing the appeal against the order of the Adjudicating authority u/s 454(6) falls between 01/03/2020 to 31/05/2020, a period of additional 120 days shall be allowed with effect from such last date to all Companies and their officers for filing the appeal before the concerned Regional Directors.

B. During such additional period as stated in (A) above, prosecution under sec 454(8) for non-compliance of the order of the Adjudicating Authority, in so far as it relates to delay associated in filing of any document, statement of return, etc in MCA-21 registry shall not be initiated against such Companies on their officers.

INACTIVE COMPANIES:

Option 1: The Scheme gives an opportunity to Inactive Companies to get the status of Dormant Company u/s 455 of the Act by filing for MSC-1 at a normal fees

Option 2: If the Company wishes to apply for striking off the name of the Company then it shall file e-form STK-2 by paying the applicable fees for such form.

IMPORTANT CLARIFICATION ON PASSING OF ORDINARY AND SPECIAL RESOLUTION BY THE COMPANIES

In view of the current Pandemic situation, all businesses

except ordinary business or any business where any person has a right to be heard shall be passed either through postal ballot or e-voting without holding a General Meeting which requires physical presence of members at a common venue.

However, if holding of EGM is unavoidable, then the following procedure shall be adopted for conducting such meeting on or before 30/06/2020.

Sr. No	Where a Company is required to provide or has opted for e-voting	Where the Company is not required to provide e-voting
1	Meeting may be held through VC or OAVM & the Company shall maintain the recorded transcript. In case of Public Company, transcript shall be made available on website (if any) 2019-2020	Same
2	Different time zone of different people shall be kept in mind before scheduling the meeting.	Same
3	Meeting through VC or OAVM facility must allow two way teleconferencing or webex. Atleast 1000 members must be allowed to attend the meeting on first-come-first-served basis. Large shareholders and committee members shall also be allowed to attend the meeting	Meeting through VC or OAVM facility must allow two way teleconferencing or webex. Atleast 500 members must be allowed to attend the meeting on first-come-first-served basis. Large shareholders and committee members shall also be allowed to attend the meeting.
4	Facility to join the scheduled meeting shall be kept open atleast 15 minutes before the meeting and 15 minutes after the scheduled time.	Same
5	Facility of remote e-voting shall be provided before the actual date of meeting time.	-NA-
6	Attendance of members through VC and OAVM shall be counted for the purpose of Quorum	Same
7	Only those members who are present in the meeting shall be allowed to cast their vote provided that they have not casted vote through remote e-voting.	-NA-
8	Appointment of Chairperson shall be done in the following manner: a. If provided by the AOA- then such person shall be the Chairperson b.less than 50 members- then the appointment shall be made as per section 104 c. all other cases- the appointment shall be made by poll.	Same

Sr. No	Where a Company is required to provide or has opted for e-voting	Where the Company is not required to provide e-voting
9	Chairman shall ensure that the e-voting facility is available for the purpose of conducting a poll during the meeting held through VC or OAVM	-NA-
10	Voting: a. less than 50 members - through e-voting or show of hands unless a demand of poll is made as per section 109 b.all other cases - through e-voting system	Voting: a. less than 50 members- through show of hands unless a poll is demanded b. if a poll is demanded, the members shall cast their vote on the resolutions only by sending emails through email address which are registered with the Company. The said emails shall only be sent to the designated email address circulated by the Company in advance.
11	Since General Meeting under this framework will be held through VC, there is no requirement of appointment of proxies. However, in pursuance of sec 112 & 113, representatives of the members may be appointed for the purpose of voting through remote e-votingbasis. Large shareholders and committee members shall also be allowed to attend the meeting	Same
12	Atleast one Independent Director(where the Company is required to appoint one) and the Auditor or his Authorised representative who is qualified to be the auditor shall attend such meeting OAVM shall be counted for the purpose of Quorum.	Same
13	If Institutional investors are members of the Company , they must be encouraged to attend and vote at the meeting.	Same
14	The notice shall make all necessary disclosures of how to access and participate in the meeting, it's helpline number for those who need assistance. A copy of notice shall be displayed on the website and in case of listed Company, intimation shall be sent to stock exchange.	Same

Sr. No	Where a Company is required to provide or has opted for e-voting	Where the Company is not required to provide e-voting
	Note:In case, a notice for meeting has been served prior to the date of circular, the framework proposed in the Circular no 14/2020 dated 08/04/2020 may be adopted for the meeting, in case the consent from the members has been obtained in accordance with sec 101(1) of the Act and a fresh notice of shorter duration with due disclosures in consonance with this circular is issued consequently.	
15	-NA-	The Company shall provide a designated email address to all members at the time of sending the notice of the meeting so that the members can convey their vote, when a poll is required to be taken during the meeting on any resolution, at such designated e-mail address. The confidentiality of the password and other privacy issues associated with the designated email address shall be strictly maintained by the Company at all times. Due safeguards with regard to authenticity of email address and other details of the members shall also be taken by the Company.email address which are registered with the Company. The said emails shall only be sent to the designated email address circulated by the Company in advance.
16	-NA-	In case the counting of votes requires time, the said meeting shall be adjourned and called later to declare the result.
17	All resolutions passed shall be filed with ROC within 60days of the meeting.	Same

CONCLUSION:

MCA in this difficult COVID-19 situation has taken great efforts and generous actions to protect Corporates from additional fees and to reduce their burden from statutory compliances. However, MCA seems to have failed in case of Affirmation and Readiness towards COVID-19 as it does not have any pratical approach and does not add any valuation to the working of Corporates. The only positive thing that might come out of this situation is awareness towards "work from home culture". This situation has made Corporates realise that they need not invest such huge amount on infrastructure and offices and that they can conduct business productively through their employees working from home.

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Introduction

The Insolvency and Bankruptcy Code (hereinafter referred to as the Code / IBC) was introduced in Lok Sabha in December, 2015, it was passed by Lok Sabha on 5th May, 2016 and it received the assent of the President of India on 28th May, 2016. The Code became effective in December, 2016.

The Insolvency and Bankruptcy Code, 2016 reconceptualised and redefined the framework for insolvency resolution in India. The Code was introduced to consolidate the then bankruptcy framework by creating a single law for insolvency and bankruptcy.

The intention behind enacting the Code was to provide a thorough law and single platform to deal with or resolve recovery issues of business entities and to provide time bound resolution for viable businesses and initiate the liquidation processes of unviable businesses at the earliest to stop any substantial loss in value and to consolidate all statutes, schemes, orders into single debt resolution process and most importantly to put a full stop to the crisis happening due to piling up of non-performing assets (NPA). BIFR,CDR, SDR and other debt resolution schemes were withdrawn/repealed with the notification for enacting the Insolvency and Bankruptcy Code, 2016. The bad loan recovery mechanism was governed by the following legislations prior to the enactment of Insolvency and Bankruptcy Code, 2016;

- Presidency Towns Insolvency Act, 1909
- The Provincial Insolvency Act, 1920
- Sick Industrial Companies Act
- The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (also known as the SARFAESI Act)
- Recovery of debts due to banks and financial Institutions Act

The Code came as a saviour to the Economy of India by way of helping Banks tackle their distressed assets rapidly with a much-simplified processes. The objective of the Code is tohelp banks, business entitiesat different levels, suppliers, service providers, employees and workmen and such other classes of creditors to recover the unpaid dues from sick / financial unviable entities.

The Objective of the Code has been very well explained and clarified by the Hon'ble NCLAT in the matter of Binani Industries Limited Vs. Bank of Baroda & Anr. as under:

The first order objective is **"resolution"**. The second order objective is **"maximisation of value of assets** of the 'Corporate Debtor'' and the third order objective is **"promoting entrepreneurship, availability of credit and balancing the interests".** This order of objective is sacrosanct.

Hon'ble Supreme Court in the matter of Arcelor *Mittal India Private Limited Vs. Satish Kumar Gupta & Ors.* said that the intent of the Code and impact on the stakeholders should be taken into consideration while passing any order under the Code.While relying on regulation 32 (e) of the Regulations, it was observed;

"The only reasonable construction of the Code is the balance to be maintained between timely completion of the corporate insolvency resolution process, and the corporate debtor otherwise being put into liquidation. **We must not forget that the corporate debtor consists of several employees and workmen whose daily bread is dependent on the outcome of the corporate insolvency resolution process.** If there is a resolution applicant who can continue to run the corporate debtor as a going concern, every effort must be made to try and see that this is made possible."

Hence, itcan be said that the intention of the Code is way beyond than just to recover money from the unviable entities.

II. HOW THE CODE EVOLVED AND THE CHANGES MADE TO IT OVER A PERIOD OF TIME:

Since the commencement, the Code has undergone constant refining by way of many amendments. The judiciary has also played a significant part in streamlining various provisions of the Code by way of passing many remarkable judgements which has helped to interpret the Code with lot of clarity.

1. VARIOUS COMMITTEES AND THEIR REPORTS ON IBC:

The Ministry of Corporate Affairs, Government of India, has been forming various committees from time to time since the inception of the Code which analysed the practical aspects, made in-depth study and its impact on the economy and recommended amendments/ modifications etc. from time to time to make the Code more and more effective which will be beneficial to all the stakeholders and business community as a whole.

Sr. No	Committees	Brief about the Reports
1	Report of the Bankruptcy Law Reforms Committee. (04.11.2015)	The objective of this committee was for India to have an efficient legal structure for insolvency and bankruptcy. This Committee worked on navigating the legislative track preparing, finalising and presenting the draft law to the Parliament. The establishment of the regulator (Insolvency and Bankruptcy Board of India)was seen as long-term process to this committee. Therefore, committee recommended the Central Government to take necessary decisions and actions to form and establish the regulator.
2	Report of the Joint Committee of Parliament. (28.04.2016)	The Committee invited suggestions/ views on the Insolvency and Bankruptcy Bill from various statutory/ regulatory/ government bodies, stakeholders and public at large. The committee considered the code clause by clause and also made lot of modifications and additions to the Bill and authorised Shri Bhupender Yadav to present the report to Lok Sabha and Rajya Sabha.
3	Report of the Insolvency Law Committee. (26-03-2018)	The Committee worked on following; a. the importance of MSME and to exempt them from certain provisions of IBC; b. to add proviso to Section 29A to facilitate certain NPAs to apply under the Code; c. to treat home buyers as financial creditors; d. re-calibrate the voting threshold; e. to enable corporate debtor to continue as a going concern f. to cater to exceptional circumstances warranting withdrawal of application for CIRP post its admission g. requirement of special resolution for Section 10 applications.
3	Report of Insolvency Law Committee on Cross Border Insolvency. (16-10-2018).	The Committee decided to attempt to provide a comprehensive framework for this purpose based on the UNCITRAL Model Law on Cross-Border Insolvency, 1997 which could be made a part of the Code by inserting a separate part for this purpose. The committee recommended to make amendments to Section 234 and 235 of the Code.

Sr. No	Committees	Brief about the Reports
5	Report of the Insolvency Law Committee. (20.02.2020)	Following are the recommendations of the committee; a. Threshold for calculating default should be higher than Rs. 1 Lakh b. There should be a requirement for minimum threshold number financial creditors c. Continuation of licenses etc. granted by Government authorities during moratorium period d. Continuation of critical supplies during moratorium e. Meaning of personal guarantor may require to be clarified f. Out of court settlement mechanisms g. Adjudicating Authority for Fresh Start Process needs to reassessed and reidentified h. Scheme of arrangement under Section 230 of the Companies Act, 2013 vis-à-vis liquidation.

2. FIRST ORDER UNDER THE CODE:

Synergies-Dooray Automotive Limited, a corporate debtor itself had filed a petition in January 2017, under Section 10 of the Code for initiation of Corporate Insolvency Resolution Process on the ground that it had filed an application before BIFR, But The provisions of Sick Industrial Companies (Special Provisions) Repeal Act, 2003 came into force. Due to this, all the proceedings pending before the BIFR stood abated. Due to this, the Petitioner's reference to BIFR also stood abated. Pursuant to the provisions of the Insolvency & Bankruptcy Code & Sick Industrial Companies (Special Provisions) Repeal Act, 2003, the Respondent made fresh application to the National Company Law Tribunal within 180 days of the commencement of Insolvency and Bankruptcy Code. Hence, the petition was admitted by the Hon'ble National Company Law Tribunal, Hyderabad Bench on 14 August 2017.

3. NUMBER OF IBC CASES AND THE IMPACT OF THE RESOLVED CASES ON THE ECONOMY

The Code by way of its corporate insolvency resolution mechanism has really helped the economy of the Country to recover money and bring it back into the system. IBC has also been titled as Industrial Blood Cell (IBC) as it is helping the viable industries to grow and expand by way of using the Insolvency Resolution Processes against those who are not paying off the dues on time and facilitate selling off of financial unviable going concerns instead of liquidating the same. The bankruptcy system is known as the plumbing of economics. It enables the economy to flush out inefficient businesses and reallocate capital to more efficient users.

The last 3 years since the commencement of IBC, it not only has tested the mettle of the IBC, but also of the NCLT and its appellate body NCLAT, as several high-profile cases are in the process of resolution. Banks have recovered 40% of dues from Top 12 insolvency accounts. Lenders to the 12 largest accounts, referred for insolvency proceedings in June 2017, have managed to recover about 40 percent of their outstanding dues.Essar Steel Ltd (involving over ₹ 80,000 crore alone) and Bhushan Power and Steel Ltd (about ₹ 45,000 crore due to its lenders), Lanco Infratech, Alok Industries, Jyoti Structures.

Around half of the claims under the Insolvency and Bankruptcy Code (IBC) were settled in 2018-19, the latest RBI report showed, helping banks recover stressed assets more quickly. As a percentage of claims, banks recovered on average 42.5% of the amount filed through the IBC in the financial year 2018-19, against 14.5% through the Sarfaesi resolution mechanism, 3.5% through Debt Recovery Tribunals and 5.3% through Lok Adalats. Against Rs 1.66 lakh crore claims involved under

IBC, the recovery was Rs 70,819 crore. Through the SARFAESI mechanism, it stood at Rs 41,876 crore. Recoveries through DRTs and Lok Adalats were Rs 10,575 crore and Rs 2,816 crore, respectively. (Numbers are taken as published in Economic Times). Due to this the number of Tribunals and benches increased.

4. CIRCULAR ISSUED BY RESERVE BANK OF INDIA DATED 12TH FEBRUARY, 2018 AND ITS CURRENT STATUS:

The Reserve Bank of India on 12th February, 2018 issued a circular with a view to take benefit of Insolvency and Bankruptcy Code, 2016 by way of issuing guidelines to lender banks [which includes specifically All Scheduled Commercial Banks (Excluding Regional Rural Banks (RRB)), All-India Financial Institutions (Exim Bank, NABARD, NHB and SIDBI)] to recover and tackle the Non Performing Assets (NPAs). This was considered as a stringent step taken by RBI against all such NPAs. The key highlights of the circulars are as follows;

- Discontinuation of various other debt restructurings including corporate debt restructuring, strategic debt restructuring;
- Insolvency and Bankruptcy Code was the only mechanism to recover / restructure the defaulted loan accounts
- Identification of signs of incipient stress in loan accounts and Classification of Stressed assets as Special Mention Assets (SMA)
- Even single day of default in debt servicing would require reporting to RBI and implementation of Resolution Plan
- Lenders were required to implement the Resolution Plan in 180 days failing which insolvency proceedings would be initiated against such borrower.

The aforesaid circular of the RBI was challenged by Dharani Sugars & Chemicals Limited Vs. Union of Indiaon the ground that the RBI cannot exercise its power to issue such directions without obtaining authorisation from the Central Government that further RBI is not empowered under Section 35AA of the BR Act to issue directions for reference to the Code of 'all cases' without considering 'specific defaults'.

On 2nd April, 2019, The Hon'ble Supreme Court set aside the circular of RBI containing the framework for resolution of stressed assets for being ultra vires of Section 35AA of Banking Regulation Act, 1949 ("BR Act"). The RBI Circular mandated banks and financial institutions to initiate resolution against defaulting companies.

5. RELAXATION IN THE PROVISIONS RELATING TO MINIMUM ALTERNATE TAX (MAT):

The earlier provision of Section 115JB of the Income Tax Act, 1961 provided that for the purpose of levy of Minimum Alternate Tax (MAT)in case of a Company, the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of accounts shall be reduced from the book profit. The Ministry of Finance received representations from various stakeholders against whom applications for Corporate Insolvency Resolution Process (CIRP) were admitted initiated u/s 7,9,10 of the Code which were facing hardship due to restriction in allowance of brought forward loss for computation of book profits u/s 115JB of the Income Tax Act. Hence, to minimize the hardship faced by the aforesaid companies, the Ministry of Finance on 6th January, 2018 vide Press Release informed that, in case of companies against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority u/s 7,9, 10 of the Code, the amount of total loss brought forward (including unabsorbed depreciation) shall be allowed to be reduced from the book profit for the purposes of levy of MAT u/s 115JB of the Income Tax Act with effect from the Assessment Year 2018-19 (financial year 2017-18)

6. CONSTITUTIONAL VALIDITY OF THE CODE:

Various cases in form of Writ Petitions and One Special leave petition were filed before the Apex Court to challenge the constitution validity of the Code. The Hon'ble Supreme Court in the case of Swiss Ribbons Private Limited and Anr. Vs. Union of India and Ors, upheld the validity of the code in its entirety. The Judgement dealt with significant issues pertaining to the admission process, lack of participation of operational creditors in the committee of creditors. The highlighted observations of the ruling focuses on the following three factors of the Code;

- Classification of creditors as financial creditors and operational creditors - The Court analysed the role played by the two set of creditors in furtherance of the Code.
- Validity of Section 29A– This Section talks about the

eligibility criteria to submit resolution plan and has defined "ineligible persons" for the purpose of resolution plan. The Supreme Court in the aforesaid case pointed out with regard to the participation of relative in resolution planthat if it is not shown that such 'related person' is connected with the business of the activity of the resolution applicant, he cannot be excluded under Section 29A. Therefore, Section 29A is constitutionally valid and is applicable in its entirety.

- Section 12A–The contention of the Petitioners against the provisions of this section for the requirement of 90% approval of the COC for the purpose of withdrawal of application. The Court observed that the requirement of 90% was verified by the Insolvency Law Committee Report because withdrawal of application is a major decision and there 90% is justified and therefore Section 12A passed the constitutional validity test.

7. HOME BUYERS, REAL ESTATE DEVELOPERS AND THE CODE:

- December, 2016 – When Code got enacted, there was no provision with regard to the rights of the home buyers. "Whether home buyer is a financial creditor or operational creditor" was the question raised by various applications filed by the home buyers before the NCLT and NCLAT. In Col. Vinod Awasthy v. AMR Infrastructure Ltd., NCLT, Principal Bench, Delhi, had categorized Home Buyers as neither fitting within the definition of 'financial' nor 'operational' creditors.
- 21.07.2017 - Nikhil Mehta v. AMR Infrastructure, NCLAT, New Delhi–In this appeal the Hon'ble NCLAT held that home buyers to be treated as "financial creditors" due to the assured return clause in the agreement.
- 03.04.2018 - Recommendations of Law Reform Committee –The Committee recommended to balance the interest of various other stakeholders including home buyers and suggested amendments to the Code.
- 06.06.2018 –Insolvency and Bankruptcy Code Amendment Ordinance, 2018 –The Government had promulgated the Ordinance, 2018 on 6th June, 2018 to implement the recommendations of Law Reform Committee.
- 17.08.2018 - Insolvency and Bankruptcy (Second Amendment) Act, 2018–The amendments of ordinance were permanently incorporated to the Code by way of Second Amendment to the Code. This was done to as explanation under Section 5(8)(f) which defines "Financial Debt." By way of this insertion, commercial effect of borrowing was given to the moneys given by "allottees" to builders / real estate developers.
- Real Estate (Regulation and Development) Act, 2016 ("RERA")–The definitions of Allottees and Real Estate Project have been taken from RERA. "Allottee" is defined under RERA in relation to a real estate project as a person to whom a plot, apartment or building has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter and includes a subsequent acquirer of such property. "Real estate project" is defined under RERA inter alia as the development of a building or a building consisting of apartments or converting an existing building or a part thereof into apartments or the development of land into plots or apartments for the purpose of selling all or some of the said apartments or plots or building, as the case may be.
- 09.08.2019–PioneerUrban Land and Infrastructure Ltd. v. Union of India–The Constitutional validity of the aforesaid amendment was challenged before the Hon'ble Supreme Court on the ground that treating allottees as financial creditors is in violation of Article 14 because the amendment to the Code is discriminatory as it treats unequal equally, and equals unequally, having no intelligible difference. The Hon'ble Supreme Court however concluded that the 2018's amendment to the Code was Constitutional. The Court acknowledged the existence of remedies under the RERA and held that these remedies, along with those available under the Consumer Protection Act, 1986 (which has been repealed by the Consumer Protection Act, 2019) were concurrent with remedies under the IBC. The Court stated that the RERA is to read harmoniously with the Code. It is only in the event of conflict that the Code will prevail over the RERA. The Court stated, inter alia, that allottees were in a unique position, given that they essentially financed the construction of their own apartments. This formed the basis of the Supreme Court's differentiation

between home-buyers and other operational creditors, thus warranting that the former receive the status of financial creditor.

- Effects of the Supreme Court Judgement on the Real Estate Market and litigations thereof – The Judgement of the Ho'ble Supreme Court has put the "allottees" / home buyers in confusing states with regard to what kind of action is to be taken against the Real Estate Developers if there is a delay in obtaining possession. In Parvesh Magoo Vs. Ireo Grace Realtech Private Limited Hon'ble NCLAT held that it will be desirable to find out whether the allottees has come to claim the money or to get their apartment by way of resolution. If the intention of the allottees is only for recovery of the money and not for resolution for possession by apartment, then the Corporate Debtor may bring to the notice of the Adjudicating Authority, as held by the Hon"ble Supreme Court in the case of Pioneer Urban Land and Infrastructure Limited &Anr. v. Union of India &Ors (supra). Thus, in such circumstances, the Court did not find any justification for the interference with the Impugned Order and Appeal was dismissed.
- 28.12.2019 and 12thMarch, 2020 - Minimum threshold for initiating corporate insolvency process for certain class of financial creditors–The Government vide Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 amended the Code and made a provision for minimum threshold for initiating corporate insolvency process by home buyers. The Insolvency & Bankruptcy Code (Amendment) Bill, 2020 was approved Lok Sabha. The Bill replaced the Ordinance of 2019. An amendment has been made to Section 7 of the Code.In order to initiate an insolvency process against the Corporate Debtor, where the debt owed is either in form of security/deposits or to a class of creditors, the application should be filed jointly by at least one hundred creditors in the same class or not less than ten percent of creditors of same class; whichever is less. This change was brought in with an intention to prevent superficial cases of insolvency and to restrict the bankruptcy matter for insignificant amounts of recoveries.

8. CORPORATE INSOLVENCY RESOLUTION PROCESS AGAINST CORPORATE GUARANTOR

- An application was filed u/s 7 of the Code before NCLT by Rural Electrification Corporation Limited for the CIRP of Ferro Alloys Corporate Limited, a corporate guarantor for the loan availed by FACOR Limited.
- While granting the loan, a Corporate Guarantee Agreement was executed by Ferro Alloys Corporate Limited in favour of Rural Electrification Corporation.
- NCLT in this matter held that the Corporate Guarantor has owned the responsibility of Corporate Debtor and the liability is coextensive, continuous and independent. For this, NCLT relied upon the judgement of the Hon'ble Supreme Court in the matter of Industrial Investment Bank of India Vs. Biswanath Jhunjhunwala held that the liability of the Surety is co-extensive with that of the Principal Borrower. Hence, the application filed by Rural Electrification Corporation against the Corporate Guarantor u/s 7 of IBC was admitted by NCLT.
- NCLAT in the appeal of Ferro Alloys Corporation Limited vs. Rural Electrification Corporation Ltd. held that on a harmonious and purposeful reading of the definitions of corporate person, corporate debtor, debt, claim, financial debt, operational debt, financial creditor and default it can be concluded that as soon as a guarantee is invoked the said guarantee becomes a debt and thereafter a guarantor becomes a 'corporate debtor' as defined under the Code. It also stated that without initiating any CIRP against the 'Principal Borrower', it is always open to the 'Financial Creditor' to initiate CIRP u/s 7 against the 'Corporate Guarantor', as the creditor is also the 'Financial Creditor' qua 'Corporate Guarantor.'
- The Hon'ble Supreme Court upheld the landmark judgement passed by the NCLAT in case of Ferro Alloys Corporation Limited vs. Rural Electrification Corporation Ltdon 11thFebruary, 2019.

There fore, on the basis of the NCLAT's decision it can be said that a Creditor is not required to recover its debt from the Principal Borrower first and then proceed

against the Guarantor. Rather, it may directly proceed against the Guarantor on the fact that the liability of the Surety is co-extensive with that of the Principal Borrower.

9. MATTERS OF PERSONAL INSOLVENCY – PART III OF THE CODE:

The provisions pertaining to the personal guarantees came into effect on 1st December, 2019. Pursuant to the said provisions an application for initiation of insolvency proceedings against personal guarantor can be initiated by the Debtor / Creditor. The National Company Law Tribunal's bench in Amaravati, Andhra Pradesh, received the first personal insolvency petition in the country in December 2019. Omkaram Venkata Ramana, who had stood personal guarantor to five firms that defaulted on Rs 38.66 crore of bank loans, filed the petition to initiate personal insolvency resolution process, which would entitle him to an interim moratorium on all his liabilities. The new framework of Part III of the Code will allow creditors to continue the recovery process with personal guarantors after the completion of the corporate insolvency resolution process.

The move is very much in its initial stages of operationalising personal insolvency by way of the Code. The Government was planning to fully operationalise the personal insolvency procedure under the Code in a year from the date of the bringing it into effect. But considering current COVID scenario and so many relaxations given to various Corporate Debtors in terms of recoveries, the same seems to be difficult in term of implementation.

10. SECTION 32A –A NEW SAFEGUARD TO THE CORPORATE DEBTORS:

- Section 32A was introduced to the Code by way of Amendment Act 2019. This Section gives immunity to the Corporate Debtor and its assets from the prosecution of offences committed by the Corporate Debtor before the initiation of Corporate Insolvency Resolution Process. This Section comes with certain restrictions by way of provisos to the same. Exemption under Section 32A can only be availed if the resolution plan results in the change in the management / control of the corporate debtor to a person (i) who was not a promoter or in the management / control of the corporate debtor / related party of such person or (ii) a person who abetted or conspired for the commission of the offence according to the relevant investigating authority.
- Section 32A has to be read with Section 14 of the Code. Section 14 provides for the moratorium period for the corporate debtor from the insolvency commencement date. No new suit can be filed against the corporate debtor or the existing cases are temporarily suspended during the said moratorium period i.e. till the completion of CIRP. However, NCLAT gave an exception to the provision of Section 14 by way of an order in the matter of Shah Brothers Ispat Private Limited Vs. P. Mohanraj where the Appellate Tribunal held that Section 14 is not applicable in case of criminal proceeding against the Corporate Debtor. However, Section 32A gives complete protection to the Corporate Debtor which includes Criminal Proceedings.
- The Hon'ble DelhiHigh Court in case of Tata Steel BSL Limited Vs. Union of India, set aside the serious fraud investigation office complaint against Tata Steel BSL Limited on 20th March, 2020. The Court stated that the a corporate debtor would not be held liable for any offence committed prior to the commencement of CIRP.

11. CHANGE IN THE INSOLVENCY COMMENCEMENT DATE:

The Amendment Act, 2019 has made change in the insolvency commencement date. Prior to the amendment, the date of commencement of Insolvency Resolution Process was considered as the appointment of Interim Resolution Professional. But after the amendment, the insolvency commencement date is the date on which the application for insolvency is admitted.

12. APPLICABILITY OF THE CODE TO FINANCIAL SERVICE PROVIDERS:

In November, 2019 the Ministry issued notification u/s 227 of the Code for prescribing rules governing the insolvency and liquidation process of financial service providers which includes Non Banking Financial Companies under is ambit. The procedure would be governed by The Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 ("FSP Rules").As per the FSP Rules, all provisions of IBC relating to a corporate insolvency

resolution process ("CIRP") and liquidation process of a corporate debtor shall apply to FSPs with certain modifications as specified in the FSP Rules.

13. CIRP AGAINST GOVERNMENT UNDERTAKING:

August, 2019 - In case of Harsh Pinge Vs. Hindustan Antibiotics Limited two members of the NCLT Mumbai bench made a contrary view with regard to the applicability of IBC to the Government Undertakings. The Judicial Member of the Bench was of the opinion that the provisions of IBC shall not apply to Government Companies whereas the Technical Member of the Bench admitted the aforesaid application and gave a contrary order to that of the Judicial Member. In the aforesaid case, as the NCLT could not come to a conclusion, it was referred to third member of the NCLT.

The Supreme Court in Hindustan Construction Co. Ltd. v. Union of Indiahad held that 'government company' as defined in section 2(45) of Companies Act, 2013 would be subsumed in the definition of 'company' as defined under section 2(20) of that legislation. Therefore, the CIRP process can be initiated against a government company by virtue of it being covered under the first part of 'corporate person' as provided in section 3(7) of the IBC.

The Code does not contain any provision such as section 462 of the Companies Act, 2013 which allows the Central Government to exempt the application of any provision of the Companies Act in the case of a particular class of companies in light of public interest. To conclude, it can be said that taking benefit of the such Code for the revival / liquidation of such public sector undertaking would be of tremendous value to the system.

III. EFFECTS OF COVID-19 ON IBC

Since past 2 months, the Country is fighting with COVID-19 / Corona Virus. Due to Social Distancing Norms, to stop the corona virus from spreading,the Government has declared lockdown to the whole country without making a single exception to any district or town. Due to the lockdown situation, all offices, factories, shops and businesses are shut. In this scenario of lockdown, the economy of the country is facing major unrest on account of disruption in trade flows and attenuated growth. The situation has been worsened by the demand, supply and liquidity mismanagement. In such scenario, major industries are expected to face tremendous lossesand in such circumstances, if IBC still operates for filing CIRP with a view of recovery, many business even if financially viable in long run will have to face litigation under the said code. Therefore, to give a breathing time to the industries for adjusting themselves with the financial crisis on account of COVD-19, the Ministry of Corporate Affairs has come up with many relaxations which are enumerated below;

- Regulation '47A' to deal with exclusion of period of lockdown, “Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of Covid-19 outbreak shall not be counted for the purposes of computation of the timeline for any task that could not be completed due to such lockdown, in relation to any liquidation process.” The amended regulation comes into effect from 29th March, 2020
- Regulation 40C - The Board has also excluded the lockdown period from the resolution timeframe of corporate persons. Furthermore, NCLAT in its order dated 30.03.2020 in “Suo Moto – Company Appeal (AT) (Insolvency) No. 01 of 2020” in “Quinn Logistics India Pvt. Ltd. vs. Mack Soft-Tech Pvt. Ltd” held that the period of lockdown shall be excluded for the purposes of CIRP and has ordered the continuance of the interim/stay order in any appeal under Companies Act, 2013 or Competition Act, 2002 passed by the Tribunal until the next hearing.
- To shield medium and small enterprises, the finance minister, Nirmala Sitharaman, announced on 24 March 2020 that the threshold of default required for initiating proceedings under the code shall be raised from the existing Rs. 1,00,000 to Rs. 1 Crore. For this a gazette notification was published on the same day in exercise of powers under section 4 of the code.
- Suspension of Section 7,9,10 of the Code: The Union Cabinet will introduce ordinance to amend the Code to prevent companies from being forced into insolvency proceedings due to default on account of COVID crisis. Therefore, sections 7, 9 and 10 of the code are proposed to be suspended for a period of six months.
- The processes that were currently underway are

also severely impacted by the global pandemic. The functioning of the adjudicating authorities under the code itself has been suspended from 15 March, and the filing counters have been closed since 19 March. Similarly, the appellate authority has also not been functioning since 21 March.

- Section 78 of the IBC which provides for threshold limit for triggering insolvency and bankruptcy proceedings against individuals. The minimum amount of default for initiation of insolvency resolution against personal guarantors of corporate debtors continues to be at Rs. 1000 (Rupees one thousand). Consequently, while the revised threshold limits have made it difficult to initiate insolvency proceedings against an MSME, the applications for initiation of insolvency proceedings against the personal guarantors of such MSME might witness an increase in numbers.

IV. CONCLUSION

With the recent developments happening with the Insolvency and Bankruptcy Code due to Covid – 19, it shall throw some new challenges to the recovery chains and liquidation processes. The present pandemic has severely impacted future and present insolvency proceedings. The essence of the code was the time-bound resolution of the debts, which is bound to be most severely impacted due to the lockdown. The Code still at the stage of developing, but this lockdown has put a break to its growth. The number of cases will certainly fall due to the current threshold and suspension of Section 7,9 and 10 though the increased threshold limit is welcome steps taken by the legislature to ensure that the Micro, Small and Medium Enterprises have enough cushion to recover from the financial distress caused by the COVID-19 pandemic. Even if this situation has put a pause to the evolution of the Code, it really has a bright future ahead as it has proved to be a successful piece of legislature due to the number of cases resolved. In this regard Justice Nariman has rightly observed in case of Swiss Ribbons Vs. Union of Indiaas" These figures show that the experiment conducted in enacting the Code is proving to be largely successful. The defaulter's paradise is lost. In its place, the economy's rightful position has been regained."

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The pangs of a global slowdown were evident from the month of April 2019. India saw five to six successive quarters of declining GDP growth. A grim estimate of 4.5% GDP growth was made. The slowdown of Indian economy has been aggravated due to a mix of both internal as well as external factors such as synchronised global slowdown, declining domestic automobile sales, and declining investment in construction and infrastructure.

It was in 2014 that USA increased its Shale Oil production and by the mid-2019, USA had gained from it considerably. The prices of Brent crude fell from $114 in 2014 to $ 27 in 2016 and keep hovering around $26 dollars till day. This has led to a price war between Saudi Arabia and Russia, the two top oil producing nations of the world, as both of them have refused to cut the production of oil. At the same time around end of 2019, the world was hit by COVID-19 virus. The virus originated in China and spread rapidly all over the world, with countries like Italy and Spain being the first countries to bear the brunt of the virus. This resulted in enforcement of lockdowns in different parts of the world and as a result, the demand for oil has dropped down considerably. The world was astounded when the prices of Western Texas Intermediate (WTI), a type of crude oil which USA produces, hit the rock bottom of $0.

Naturally, the global economy has taken a beating because of COVID-19. A very few countries like USA, Germany can bank themselves on a quite healthy economy as compared to other countries. Where do countries like India stand?

The problems of Indian economy are quite different because of presence of a large part of unorganised sector which is not fully accounted yet it contributes to the growth of the economy. The first COVID-19 case in India was found in the last week of January 2020. At the same time, the price of Brent Crude was $25 per barrel and Indian government was looking forward to gain from the price drop by upping the Excise duty on fuels. However, there was a sudden spike in cases of COVID-19 in India, and hence, the Government of India announced a Nationwide Lockdown till 14th April which was further extended till 03rd May 2020. This resulted in total collapse of demand for fuels and hence, the excise duty collection from sale of fuel also stopped. The businesses were shut down and hence, the government was forced to defer the publication of figures of GST collection for the month of April. As India opens partially on 04th of May, and maybe completely by the end of May 2020, India faces a herculean task of revival of economy and prevention of job losses after the COVID-19 pandemic gets reduced.

Given the size of Indian economy, it is necessary to divide it into two sectors: Agricultural sector and non-agricultural sector as the problems of both these sectors are varied and different from one another.

In spite of the fact that around 65-70% of the Indian population depends upon agriculture both for subsistence as well as to earn a living, the Indian agriculture sector is often the most neglected one. It is the need of the hour to move away from subsistence farming towards remunerative farming. The concept of Minimum Support Price has made the Indian farmer less entrepreneurial. The MSP is provided by the government to some select crops like Wheat, Rice and in order to ensure a fixed income, more and more farmers prefer to cultivate the same crops. This results in excessive production and stocks of these grains. Currently, India has about 3 times more stock in the Food Corporation godowns than the required buffer stock.1 The vicious cycle thus starts when government pays MSP on such crops and they are stored in Food Corporation of India (FCI) granaries. The FCI in turn takes loan from Banks to purchase and store these grains. Most of the grains rot away due to lack of space and FCI is unable to repay the loans it has taken from the Banks. This is a classic case of an inter-sector crisis which affects Indian Economy.

The problems of Indian agriculture are always seen as short term problems and no government has tried to find a long term solution to these problems. It is necessary to go to the root causes of these problems such as crop failure, poor economic condition of farmer to name a few. The current government has started a scheme called PM-KISAN wherein an income support of Rs 6000/- will be provided to farmers belonging to lower economic strata as per defined guidelines of the Central government. The government has claimed that this scheme will help in doubling the income of farmers, an

ambitious target set before itself by the government. But once again, it is in nature of a short term remedy.

Today, the main focus of any government should be to make capital intensive investment in the Indian farming sector. A focused approach is needed on creation of capital assets like warehouses for storing perishable agricultural produce, cold-storage facilities to ensure proper utilization of agriculture produce. India faces a persistent problem of fluctuating prices of agricultural commodities. The price of onions sky-rockets once a year to Rs 140 per kg in retail market and falls to Rs 10 per kg in retail market during the same year. It is because India lacks proper storage facilities and hence, the demand and supply equation gets disturbed. It is expected that all of India would be opened around end of May 2020. The government can use this opportunity for capacity enhancement in the agro sector. India is a country where we unfortunately have more in our brains and less in our pockets. The major impediment in capital investment is lack of capital with the government (both centre and state)for agro sector which can be removed by Foreign Direct Investment (FDI). The current FDI policy2 permits 100% FDI only in certain sectors of agriculture like floriculture, horticulture, animal husbandry to name a few activities. Foreign Direct Investment is also allowed upto 100% in Tea, Coffee, Rubber, and Palm Oil to name a few. However, all of them constitute cash crops where further investment is not required on priority because such plantations are owned by a handful of wealthy people. The government should allow Foreign Direct Investment upto 26% in agriculture which will boost the growth rate of the agro sector. Allowing only 26% will also assuage the fear of farmers that large multi-national corporations will take over the agriculture in India.

Foreign Direct Investment is possible only when the agriculture sector is formalised. On 17th March 2020, Smt Nirmala Sitharaman, the Minister of Finance and Ministry of Corporate Affairs introduced the Companies (Amendment) Bill,2020 which contains regulatory provisions regarding the establishment and functioning of Producer Companies. Sec 378A (k) of the Bill defines 'producer' as any person engaged in activity connected with or relatable to any primary produce. Further, it is stated that the objects of Producer Company may include production, preserving grading, pooling and of primary produce of the members. The main objective of the producer company is to facilitate the formation of co-operative business as companies and to make it possible to convert existing co-operative business into companies. Any ten or more individuals, each of them being a producer or any two or more producer Institutions may form a Producer company. A producer company shall have liability of its members limited by memorandum of association fixed by shares. Voting rights in the Producer Companies shall be one person one vote if the company has no share capital. Another option which the proposed bill provides for voting rights can be based on participation of business by the producer in last year.

This means that any farmer qualifies in the category of producer and farmers can come together in groups of 10 to from a producer company. Farmers cultivating the same crop or producers at different levels of supply chain can explore the option of incorporation of Producer companies. Such business-model formation would be advantageous on two counts. One, it will ensure transparency to the farmers and help them to earn the value of their produce fully and second, it will be helpful for investors to invest capital in such companies because of stability. If the government revises Foreign Direct Investment norms, then it will be very easy to channelize the investment into such companies. It will also lead to gainful employment for professionals like us (Company Secretaries) who will ensure regulatory compliance and help in better understanding of procedural formalities and ensure due compliance of the law.

Along with agriculture, the next big sector of Indian economy is the secondary and tertiary sector. Before delving into Indian scenario, we must discuss the Chinese model of business in short. China has rapidly attracted new and new businesses due to various factors like supply of cheap labour, robust supply chains and abundant land bank to name a few. After its diabolical handling of the COVID-19 crisis, many global giants are calling for shifting of their business units out of China. How many would actually be able to shift their units out of China remains a mystery. Even if we consider that a decent number of 10% of the total production of China is lost, Indian has a golden opportunity to encash it. We can safely say that India has the potential to provide cheap

and efficient labour to industries; the supply chain infrastructure has also improved a lot in last 6-7 years. The main challenge before Indian government will be providing a land bank to these huge industries. In India, land holdings are often fragmented and hence it is difficult for the government as well as private entities to acquire land stretches at one go. The existing set of land acquisition laws in India ie. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 discourages the very process of legislation that it intends to streamline. This legislation contains some archaic provisions related to land acquisition which has made it anti-business in its nature. It provides for heavy compensation payouts and also mandates returning of acquired land if the said land is not utilised. It also mandates that 80% of the affected landowners must consent to the acquisition of land by private entities. Such provisions detest global giants from investing in India. The Indian government, in 2014-15, had tried to approve an amendment to the said land acquisition act and proposed to dilute the requirement of 80% consent of affected landowners for projects in defence, rural electrification, housing the poor and industrial corridors. But the government had to backtrack on the said amendment because of opposition from all quarters.

Today, the time is ripe to once again go for a new and consolidated land acquisition act. The government needs to strike a balance between the affected land owners and new business wanting to invest in India. The new land acquisition act can have a provision wherein the affected landowner can be issued shares for a partial amount of the total compensation with a lock-in period in the company which acquires the land. Once the proposal to acquire land is given, the said land owners cannot sell the land which will ensure that they are not tricked into by the intermediaries. This will ensure that the affected land owner can be given adequate compensation and also can hold ownership in the company. The company acquiring also gains through such provision because it ends up saving on working capital. Land is a state subject as per Schedule VII of the Indian Constitution. For the purposes of keeping the spirit of federalism, the country may be split in 4 zones namely North, East, South and West. The government may form empowered committees in each zone consisting of representatives or secretaries of both, central and state government, to ensure fair and smooth land acquisition. When the land is sought to be acquired in a particular state, only the representative of that particular state should be allowed to attend the said committee meeting. Such an arrangement will lead to availability of land at to these global as well as Indian companies desirous of starting new businesses.

Another important area where India improved its score is in the ranking of ease of doing business. The doing business organization, on behalf of the World Bank group, which has carried out ranking of various countries after analysing multifarious factors and regulatory requirements essential for starting a business has ranked India at 63rd place after studying various parameters.5 The only 2 areas where India does not score good points is enforcement of contracts and payment of taxes. The research claims that for enforcement of a standard civil suit in Bombay City Civil Court, one has to spend 1445 days for its adjudication. The same suit will be adjudicated in 1071 days in Pakistan and 496 days in China. Singapore outshines everyone with its best performance of 120 days. The government must establish dedicated civil courts or tribunals which will specifically adjudicate disputes related to trade. Such an arrangement will result in expeditious disposal of cases of commercial disputes. Also, it will declog the civil judiciary and result in faster trials in other civil matters. The second area is payment of taxes. The taxation regime in India has never been certain and changes as and when the government in power changes. This has resulted in creation of quagmire for all types of business entities. Many developed nations follow the policy of defining a Tax policy for 10 years and acting upon the same. The Indian government has considerably reduced taxes for the corporate sector in last five years, however today; Indian needs a long term Tax policy which will ensure certainty to the tax payer. Goods and Services Tax (GST) was no doubt a bold reform, but it has not fully achieved what it meant to. The government also has to work upon easing the compliance burden of GST regime and at the same time, ensure that the tax net is widened and loopholes are plugged.

The foremost challenge before the government after the lockdown ends would be to increase its spending in various sectors. The COVID-19 virus has forced us to have a relook at our fiscal calculations. In order to maintain

fiscal discipline, the government has enacted the Fiscal Responsibility and Budget Management Act, 2003 which puts an onus on the Central Government to ensure inter-generational equity in fiscal management consistent with greater transparency in fiscal operations of the government. Section 04 of the said Act mandates the Central government to limit the fiscal deficit upto 3% of Gross Domestic Product (GDP) by 31st March 2021. The act has provided that such annual fiscal deficit target may be exceeded in cases of national calamity. The government will have to redraw the estimates and it should atleast defer the said target till 2023. This will create a room for the government to spend money in sectors like Infrastructure, Micro, Small and Medium Enterprises (MSME's) to name a few.

An idea of a Loan Moratorium can also be explored by the government. The government can announce a loan moratorium to a certain class of industries with specified capital or turnover. The said moratorium should be without penal or compound interest. This will ensure that the businesses eventually do not go bankrupt. A moratorium will also ensure repayment of loans at a future date but will safeguard them from becoming Non-Performing Assets (NPA's). It will, no doubt, disturb the working capital cycle of the lenders but will end up in saving a lot of entities going into the gorge of bankruptcy and resulting job losses can also be avoided.

Almost all of the developed countries have given fiscal relief or stimulus package upto around 15% of the respective country's GDP. India cannot afford to spend such a huge amount. However, India must find out ways to finance government spending. The easiest way is to print more money, however the main disadvantage of the same is that imposes an inflationary tax on the public at large. Another way is that the government has to resort to extensive borrowings from the public as well as international institutions. But extensive borrowings can lead to rise in interest rates and once again prove detrimental for the entire economy. There is no panacea to address this problem and hence, a balance between both the two ways must be ensured. The government can resort to printing more money but only so much that will not lead to inflationary tendencies in the economy. The government should also borrow beyond its fiscal targets to pump the money in an ailing economy.

COVID-19 has brought a crisis in the economy. There is no known correct way to ensure revival of economy. The magnanimity of Indian economy results in multitude of problems during crisis times. Indian agriculture must be paid heed to as a sector and more and more capital intensive investment must be allowed in the same. Besides this, Foreign Direct Investment through approval mode must be allowed in agro sector. In order to earn necessary gains from the COVID-19 crisis, the Land Acquisition laws must undergo an overhaul to make it more business friendly and at the same time ensuring that it does not harm the interest of the affected landholders. Further, the government also needs to formulate a stable taxation regime and arouse a sense of confidence that India has already overcome the memories of inspector raj and tax terrorism. It also needs to set up dedicated tribunals or arbitration tribunals to ensure fast track disposal of cases. It is often a misplaced notion that growing economies like India need mega announcements. As the old sayings goes, 'little drops of ocean make a mighty ocean', such changes can act as traction for the Indian economy so that we can atleast aim to grow with the conservative estimate of 3-4% in coming couple of years.

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यस्यनास्तिस्वयंप्रज्ञाशास्त्रंतस्यकरोतिकिम्/
लोचनाभ्यांविहीनस्यदर्पणःकिंकरिष्यति//

Meaning

A person who does not have his own foresight and intelligence cannot derive any benefit even if he reads bookishinformation, learns the theory. It's like showing mirror to the person who has shut his eyesight.

Comment

Today's world is full of information and data, at a click of a button one has most of the inputs. Be it bare Act, notifications, clarifications, be it case law, be it commentary by experts. But it is not mere information and theory which will help a person to excel in life. One needs to have one's own foresight and analytical capability. One should be able to analyze what is available in books (now one may say on Google) Application of mind and intelligence is vital. Bookworms may survive but cannot excel. We are in the ocean of knowledge and information, but it will not be of any benefit to a person who is not capable of applying that theory in finding solutions to the given problems. Getting out of crisis and difficult times is possible only when one has intelligence. A mirror or a binocular or a microscope however powerful it may be will be of no use to a person who has shut his eyes, does not use his own intelligence and analytical skills, which are very critical to be successful.

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General Circular No. 18/2020 dated 21st April, 2020

Holding of AGMs by companies whose FY ended on 31st December, 2019

The MCA, considering the difficulty in holding Annual General Meetings (AGMs) by companies whose financial year ended on 31st December, 2019 due to COVID-1 9 related social distancing norms and consequential restrictions linked thereto, clarified that:

If the companies whose financial year (other than first financial year) has ended on 31st December, 2019, hold their AGM for such financial year within a period of nine months from the closure of the financial year (i.e. by 30th September, 2020), the same shall not be viewed as a violation. The references to due date of AGM or the date by which the AGM should have been held under the Act or the rules made thereunder shall be construed accordingly.

Notification dated 22nd April, 2020

Period/Days of Extension for Names reserved and resubmission of forms

On account of nationwide lockdown, the Ministry of Corporate Affairs extended the period of names reserved and resubmission of forms as under:

Sr. No	Issue description	Period/Days of Extension
1.	Names reserved for 20 days for new company incorporation. SPICe+ Part B needs to be filed within 20 days of name reservation.	Names expiring any day between 15th March 2020 to 31st May would be extended by 20 days beyond 31stMay 2020.
2.	Names reserved for 60 days for change of name of company. INC-24 needs to be filed within 60 days of name reservation.	Names expiring any day between 15th March 2020 to 31st May would be extended by 60 days beyond 31stMay 2020.
3.	Extension of RSUB validity for companies.	SRNs where last date of Resubmission (RSUB) falls between 15th March 2020 to 31st May 2020, additional 15 days beyond 31stMay 2020 would be allowed. However, for SRNs already marked under NTBR, extension would be provided on case to case basis.
4.	Names reserved for 90 days for new LLP incorporation/change of name. FiLLiP/Form 5 needs to be filed within 90 days of name reservation.	Names expiring any day between 15th March 2020 to 31st May would be extended by 20 days beyond 31st May 2020.
5.	RSUB validity extension for LLPs.	SRNs where last date of resubmission (RSUB) falls between 15th March 2020 to 31st May 2020, additional 15 days would be allowed from 31st May, 2020 for resubmission. However, for SRNs already marked under NTBR, extension would be provided on case to case basis.

Sr. No	Issue description	Period/Days of Extension
6.	Extension for marking IEPF-5 SRNs to 'Pending for Rejection u/r 7(3)' and 'Pending for Rejection u/r 7(7)'	SRNs where last date of filing e-Verification Report (for both Normal as well as Resubmission filing) falls between 15th March 2020 to 31st May 2020, would be allowed to file the form till 30th Sep 2020. However, for SRNs already marked under 'Pending for Rejection u/r 7(3)' and 'Pending for Rejection u/r 7(7)', extension would be provided on case to case basis. Note: Status of IEPF-5 SRN will not change to 'Pending for Rejection u/r 7(3)' and 'Pending for rejection u/r 7(7)' till 30th Sep'20.

Notification dated 28th April, 2020

NFRA invites comments from regulated entities on the Draft Procedure for Submission of Audit Files.

For the purpose of prescribing the procedures to be followed by all entities regulated by NFRA, for submission of Audit Files to NFRA, the NFRA, through this notification, invited comments from regulated entities on the procedure described in this draft document (which is annexed to the notification published as Annexure A).

Notification dated 29th April, 2020

The Companies (Appointment and Qualification of Directors) 2nd Amendment Rules, 2020

The words "five months" are substituted by the words "seven months" in rule 6, sub-rule (1), clause (a), of the Companies (Appointment and Qualification of Directors) Rules, 2014.

Accordingly, all existing independent directors or individuals intending to get appointed as independent directors shall include their name in the independent directors' data bank within seven months from 1st December, 2019 instead of five months from 1st December, 2019.

General Circular No. 19/2020 dated 30th April, 2020

Extension of the last date of filing of Form NFRA-2

The Ministry of Corporate Affairs vide this circular announced that the time limit for filing of form NFRA-2, for the reporting period 2018-19, will be 210 days from the date of deployment of the form NFRA-2 on the website of National Financial Reporting Authority (NFRA).

General Circular No. 20/2020 dated 5th May, 2020

Clarification on holding of annual general meeting (AGM) through video conferencing (VC) or other audio-visual means (OAVM)

Earlier vide circular no. 14/2020 dated 8th April, 2020, the Ministry of Corporate Affairs (MCA) allowed the Companies to hold Extraordinary General Meetings (EGMs) through Video Conferencing (VC) or other audio visual means (OAVM) with e-Voting facility/simplified voting through registered emails, without requiring the shareholders to be physically present at a common venue.

Further, vide this circular, considering the difficulties faced by the corporates due to continuing restrictions on the movement of persons at several places in the country, the MCA allows the Companies to conduct their AGM through video conferencing (VC) or other audio visual means (OAVM), during the calendar year 2020, subject to the fulfilment of the requirements mentioned in this circular.

The framework of conducting meetings provided in General Circular No. 14/2020, dated 08th April, 2020 and the manner and mode of issuing notice provided in General Circular No. 17/2020 dated 13th April, 2020, shall be

applicable mutatis mutandis for conducting the AGM.

The Circular, among other things, also clarifies manner of sending financial statements to all persons entitled to receive the same, requirement of issuing public notice by way of advertisement in newspaper (by companies which are required to provide the facility of e-voting under the Act, or any other company which has opted for such facility), payment of dividend, steps to be taken to register the email addresses of all persons who have not registered their email addresses with the company (in case of companies which are not required to provide the facility of e-voting under the Act), etc.

Further, the MCA clarifies that the companies which are not covered by the General Circular No. 18/2020 dated 21st April, 2020 (i.e. the Companies other than the Companies whose financial year ended on 31st December, 2019), and are unable to conduct their AGM in accordance with the framework provided in this Circular are advised to prefer applications for extension of AGM at suitable point of time before the concerned Registrar of Companies under section 96 the Act.

NFRA circular dated 8th May, 2020

Extension of last date for submission of applications for the posts of CGM, GM, DGM in NFRA on deputation / short term contract basis.

The National Financial Reporting Authority extended the last date for submission of applications for the posts of CGM, GM, DGM in NFRA on deputation / short term contract basis from 15th May 2020 to 30th May 2020.

NFRA circular dated 8th May, 2020

Extension of last date for submission of applications for the posts of AGM, Manager and Assistant Manager in NFRA on deputation / short term contract basis.

The National Financial Reporting Authority extended the last date for submission ofapplications for the posts of AGM, Manager and Assistant Manager in NFRA on deputation / short term contract basis from 15th May 2020 to 30th May 2020.

General Circular No. 21/2020 dated 11th May, 2020

Clarification on dispatch of notice under section 62(2) of Companies Act, 2013 by listed companies for rights issue opening upto 31st July, 2020

Vide this circular, the Ministry of Corporate Affairs clarifies that for rights issues opening upto 31st July, 2020, in case of listed companies, which comply with the SEBI circular No. SEBI/HO/CFD/DIL/CIR/P/ 2020/78 dated 6th May, 2020, inability to dispatch the notice referred in para 1 of this Circular to their shareholders through registered post or speed post or courier would not be viewed as violation of section 62(2) of the Act.

NFRA Circular dated 12th May, 2020

Circular seeking applications from Chartered Accountants for engagement as Professionals in NFRA on contractual basis.

NFRA clarifies that, in the earlier circular on this subject, the email ID to which the applications are required to be sent may be read as manager-admn@nfra.gov.in in place of manager-admin@nfra.gov.in.

NFRA circular dated 14th May, 2020

Amendment in Vacancy Notice for direct recruitment for the posts of Manager and Assistant Manager in NFRA

The last date and time for online application for the posts of Manager and Assistant Manager is further extended till 23.59 Hrs IST of 15th June, 2020 in place of 23.59 Hrs IST of 15th May, 2020.

It is also clarified that there will be no change in eligibility criteria and the date of online examination will be intimated in due course.

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Date	Circular No./ Notification No.	Update
May 3, 2020	SEBI Notification-COVID 19	The Ministry of Home Affairs vide its Order No. 40-3/2020-DM-I (A) dated May 01, 2020 has issued revised guidelines on the measures to be taken for containment of COVID-19 in the country and has directed that these measures will continue to remain in force up for two weeks with effect from May 4, 2020. Accordingly, the Notification dated April 15, 2020 issued by SEBIwhich states offices of SEBI shall function with minimum employees will continue to remain in force in all parts of the country for two weeks with effect from May 4, 2020. The said notification has been issued by the Chief General Manager, SEBI.
May 12, 2020	SEBI/HO/CMD1/CIR/P/2020/79	SEBI had granted relaxations in terms of compliance with certain provisions of SEBI (Listing Obligations and Disclosure Requirements) Rules, 2015 (**"SEBI LODR"**) vide circulars dated March 19, 2020, March 26, 2020, April 17, 2020 and April 23, 2020. In view of the extension of lockdown due to COVID 19 pandemic, SEBI has decided to grant following additional relaxations/issue clarifications to listed entities: **1. Relaxations necessitating out of MCA circulars** (a) Requirement of sending hard copies of documents: The requirements of Regulations 36 (1)(b) and (c) and Regulation 58 (1)(b) &(c) of the SEBI LODR which deal with listed entities required to send hard copy of the statement containing salient features of all the documents, as prescribed under Section 136 of the Companies Act, 2013 to the shareholders who have not registered their email addresses and hard copies of full annual reports to those shareholders, who request for the same, respectively, are dispensed with for listed entities who conduct their AGMs during the calendar year 2020 (i.e. till December 31, 2020). (b) Requirement of proxy for general meetings: The requirement under Regulation 44 (4) of SEBI LODR which deals with listed entities required to send proxy forms to holders of securities, is dispensed temporarily, in case of meetings held through electronic mode only. This relaxation is available for listed entities who conduct their annual general meetings through electronic mode during the calendar year 2020 (i.e. till December 31, 2020). © Requirement of dividend warrants/cheques:Regulation 12 of the SEBI LODR prescribes issuance of 'payable at par' warrants or cheques in case it is not possible to use electronic modes of payment. Further, in case the amount payable as dividend exceeds Rs.1500/-, the 'payable-at-par' warrants or cheques shall be sent by speed post. The requirements of this regulation will apply upon normalization of postal services. However, in cases where email addresses of shareholders are available, listed entities shall endeavor to obtain their bank account

Date	Circular No./ Notification No.	Update
		details and use the electronic modes of payment specified in Schedule I of the SEBI LODR. **2. Relaxation from publication of advertisements in the newspapers:** Relaxation from publication of advertisements in the newspapers as required under Regulation 47 and Regulation 52(8) of SEBI LODR has been extended for all events scheduled till June 30, 2020. **3. Relaxation from publishing quarterly consolidated financial results under Regulation 33(3)(b) of SEBI LODR for certain categories of listed companies:** Listed entities which are banking and / or insurance companies or having subsidiaries which are banking and / or insurance companies may submit consolidated financial results under Regulation 33(3)(b) for the quarter ending June 30, 2020 on a voluntary basis. However, they shall continue to submit the standalone financial results as required under Regulation 33(3)(a) of the SEBI LODR. If such listed entities choose to publish only standalone financial results and not consolidated financial results, they shall give reasons for the same. This circular is available on SEBI website at www.sebi.gov.in under the category "Legal-Circulars".
May 14, 2020	SEBI/HO/CFD/CMD1/CIR/P/2020/81	SEBI circular No. CFD/CMD/CIR/P/2017/115 dated October 10, 2017 lays down the procedure to be followed by the recognized stock exchanges / depositories with respect to MPS non-compliant listed entities, their promoters and directors, including levy of fines, freeze of promoter holding etc. In view of the prevailing market conditions, SEBI has decided to grant relaxation from the applicability of the October 10, 2017 circular. Accordingly, the stipulations of the aforesaid October 10, 2017 SEBI circular are relaxed for listed entities for whom the deadline to comply with MPS requirements falls between the period from March 1, 2020 to August 31, 2020. This circular is available on SEBI website at www.sebi.gov.in under the category "Legal-Circulars".
May 20, 2020	SEBI/HO/CFD/CMD1/CIR/P/2020/84	**Advisory on disclosure of material impact of COVID-19 pandemic on listed entities under SEBI LODR** In this circular SEBI states that it is important for a listed entity to ensure that all available information about the impact of these events on the company and its operations is communicated in a timely and cogent manner to its investors and stakeholders. Listed entities are encouraged to evaluate the impact of the CoVID-19 pandemic on their business, performance and financials, both qualitatively and quantitatively, to the extent possible and disseminate

Date	Circular No./ Notification No.	Update
May 20, 2020	SEBI/HO/CFD/CMD1/CIR/P/2020/84	the same to all its investors. An illustrative list of information that listed entities may consider disclosing, subject to materiality, inter alia consists as follows: (a) Impact of COVID-19 on business, details of impact on profitability, capital and financial resources, assets, liquidity position, ability to service debts, supply chain and so on; (b) Ability to maintain operations including the factories/units/office spaces functioning and closed down; (c) Steps taken to ensure smooth functioning of operations; (d) Estimation of future impact of COVID-19 on its operations; (e) Existing contracts/agreements where non-fulfilment of the obligations by any party will have significant impact on the listed entity's business; and (f) Other relevant material updates about the listed entity's business. In addition to the above, while submitting financial statements under Regulation 33 of SEBI LODR, the listed entities may specify the impact of COVID-19 pandemic on their financial statements, to the extent possible. SEBI has further states that the listed entities should not resort to selective disclosures, keeping in mind the principles governing disclosures and obligations of a listed entity as prescribed in SEBI LODR, more specifically, having regard to the requirements of Regulation 4(2)(e) of the SEBI LODR on disclosure and transparency. This circular is available on SEBI website at www.sebi.gov.in under the category "Legal-Circulars".

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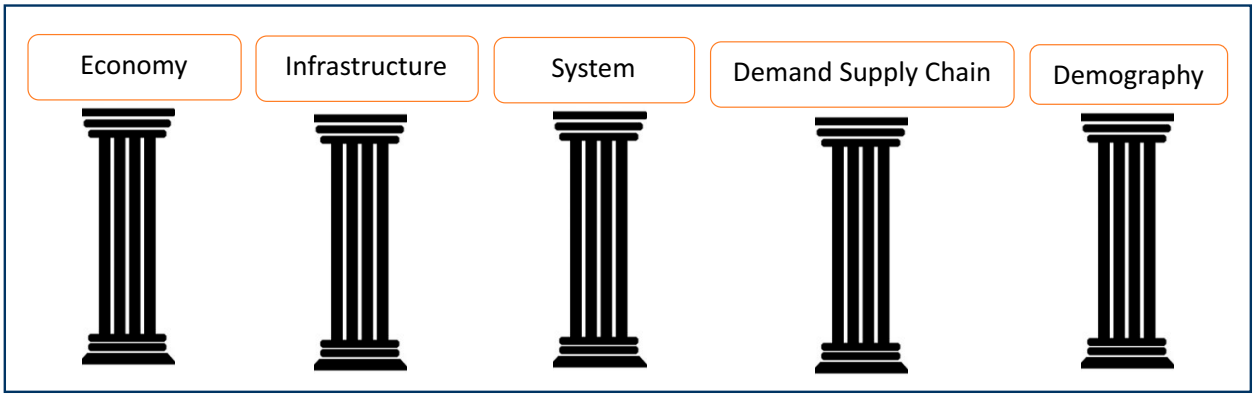
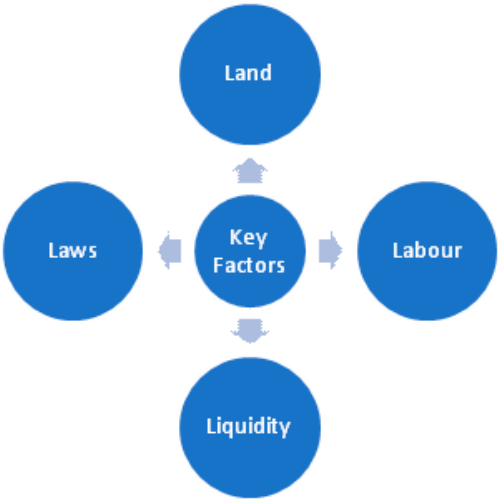
Aatma Nirbhar Bharat Abhiyan 2020 or Self Reliant India Campaign (hereafter referred to as 'ABHIYAN') is a new initiative of the Modi led Union Government of India to make India self dependent.

The main objectives of this ABHIYAN are :

- To make India a manufacturing hub, which will enable India to meet its own requirements and produce it for others also.
- More exports than imports
- Become vocal for local products to make them global

5 Pillars of Growth under ABHIYAN



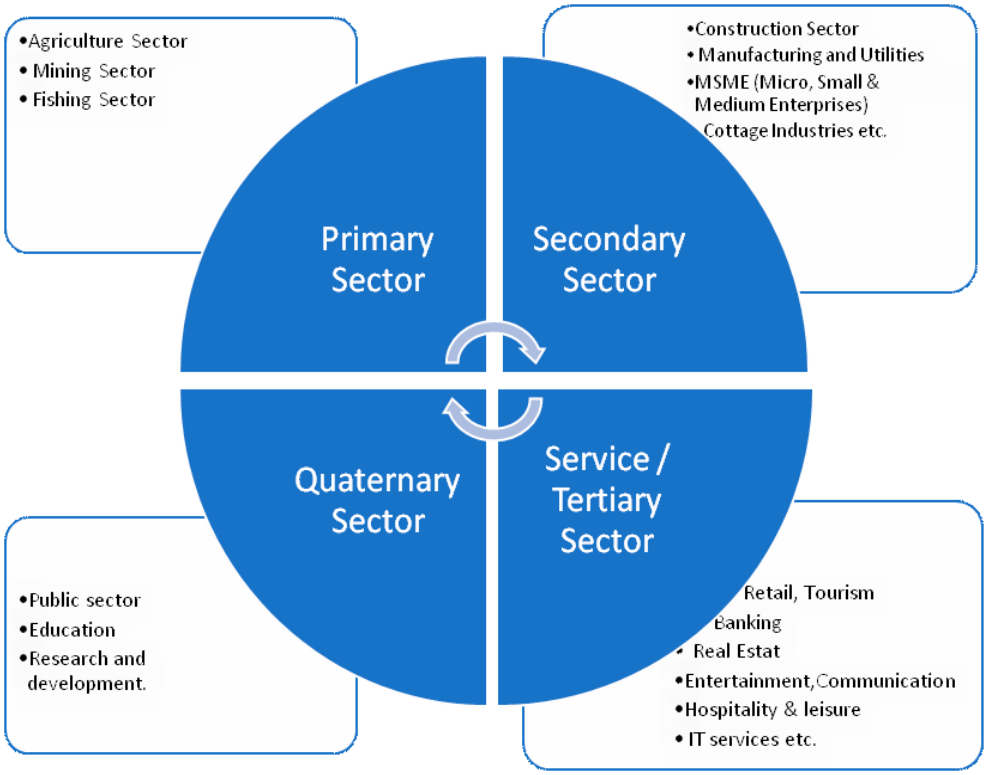


Key Factors of ABHIYAN

All the sectors as mentioned above would be benefited so that the entire Indian economy could get a boost. The main focus would be on improvement in land issues, labour, liquidity support and laws.

Main beneficiaries of ABHIYAN are:

Following Sectors will get Benefit from ABHIYAN



Economic Packages under ABHIYAN

This economic package of Rs. 20 lakh crore under **ABHIYAN** has been announced in 5 tranche economic doses. The Key Highlights of the same are as follows:

1st Economic Dose

- Pradhan Mantri Garib Yojana
- 15 different measures, which includes 6 measures for Micro, Small and Medium Enterprises (MSMEs), 2 for Employee Provident Fund (EPF), 2 for HFCs / MFIs / NBFCs, 1 for power sector, 1 for real state, 1 for contractors, 2 as direct tax measures

2nd Economic Dose

- main focus is on migrant workers, street vendors, small traders, small farmers and self employed persons
- There are 9 measures, which includes 3 for migrant workers, 1 for shishu loan within mudra, 1 for street vendors, 1 for housing, 1 for employment of people in tribal areas and tribal pockets and 2 measures are related to farmers.

3rd Economic Dose

- main focus is on agriculture and allied activities, govt and administrative reforms.
- There are 11 measures amongst which first 8 measures are for welfare for fisheries, dairy, animal husbandry, food processing and farmers while last 3 are government reforms in system to benefit agriculture sector.

4th Economic Dose

- main focus is on structural reforms in 8 sectors viz. Coal, Minerals mining, Defense production, Civil Aviation (airspace management, PPP and airports, MRO Hubs), Power distribution sector, Social Infrastructure Projects, Space and Atomic

5th Economic Dose

- Health Related Steps for COVID-19
- Technology driven systems for Online Education for Students during COVID-19
- Corporate Law measures for Ease of Doing Business

Out of various measures declared by Government for various sectors through ABHIYAN package, following are some of the important measures :

Corporate Law measures for Ease of Doing Business

- Intervening gap between two Board Meetings increased from 120 days to 180 days till 30th September 2020.
- Extra Ordinary General Meetings (EOGM) of the Companies can be conducted through Video Conferencing with e-voting/ simplified voting facility.
- Integrated Web based Incorporation Form Simplified Proforma for Incorporating Company Electronically Plus SPICe introduced which extends 10 services of different Ministries and one State Government through a single form.
- Databank of Independent Directors launched.
- Withdrawal of more than 14,000 prosecutions under the Companies Act, 2013 Rationalization of Related Party Transaction related provisions.
- Timely Action during COVID 19 to reduce compliance burden under various provisions of the Companies Act, 2013 as well as enable Companies conduct Board Meetings, EGMs AGMs, Rights issue by leveraging the strengths of Digital India.

Further enhancement of Ease of Doing business through IBC related measures

- Minimum threshold to initiate insolvency proceedings raised to Rs.1 crore (from Rs. 1lakh, which largely insulates MSMEs).
- Special insolvency resolution framework for MSMEs under Section 240A of the Code to be notified soon.
- Suspension of fresh initiation of insolvency proceedings up to one year depending upon the pandemic situation.
- Empowering Central Government to exclude COVID 19 related debt from the definition of "default" under the Code for the purpose of triggering insolvency proceedings.

Decriminalisation of Companies Act defaults

- Decriminalization of Companies Act violations involving minor technical and procedural defaults (shortcomings in CSR reporting, inadequacies in board report, filing defaults, delay in holding AGM)
- Majority of the compoundable offences sections to be shifted to internal adjudication mechanism (and powers of RD for compounding enhanced 58 sections to be dealt with under IAM as compared to 18 earlier)
- The Amendments will de clog the criminal courts and NCLT

- Key reforms to include Direct listing of securities by Indian public companies in permissible foreign jurisdictions Private companies which list NCDs on stock exchanges not to be regarded as listed companies Including the provisions of Part IXA (Producer Companies) of Companies Act, 1956 in Companies Act, 2013
- Power to create additional/ specialized benches for NCLAT
- Lower penalties for all defaults for Small Companies, One person Companies, Producer Companies Start Ups

Measures taken by RBI

- RBI raised advance limits of states by 60% and also enhanced overdraft duration limits
- To have liquidity, reduction in Cash Reserve Ratio (CRR)
- Banks will have to invest amount borrowed under Targeted Long Term Repo Operations (TLTROs) in investment grade corporate brands , commercial paper and non-convertible debentures of Non Banking Financial Companies (NBFCs) and Micro finance Institutions (MFIs).
- Through Marginal Standing Facility (MSF) window, Banks can borrow from RBI with more liquidity and reduced MSF.
- Announced special refinance facilities to NABARD, SIDBI and the NHB.
- Opening of Special Liquidity Facility (SLF) for mutual funds
- Three months moratorium on payment of instalments and interest on working capital in respect of all Term Loans
- Reduced margins for working capital financing
- FDI limit in the defence manufacturing under automatic route will be raised from 49% to 74%

Businesses including Micro, Small and Medium Enterprise (MSME):

- Emergency Credit Line for businesses including MSME, for Collateral free Automatic loan from Banks and NBFCs .
- **For NPA and stressed MSMEs**, Government to provide support to Credit Guarantee Fund Trust for Micro And Small Enterprises (CGTMSE) and in return CGTMSE to provide partial credit guarantee support to Banks. Banks to provide debt to promoters of MSME, who to infuse the same as equity in MSME.
- **For MSMEs having growth potential and viability**, Government to set up Fund of Funds mechanism helping leverage of funds in MSMEs expandingtheir size and capacity.
- Definition of MSME revised upwards, so as to cover more enterprises :

Classification	Micro		Small		Medium	
	Existing	**New**	**Existing**	**New**	**Existing**	**New**
Manufacturing Investment in Plant & Machinery	Less than Rs. 25 Lacs	Investment Less than Rs. 1 Crore and Turnover less than Rs. 5 Crores	Less than Rs. 5 crores	Investment Less than Rs. 10 Crore and Turnover less than Rs. 50 Crores	Less than Rs. 10 Crores	Investment Less than Rs. 20 Crore and Turnover less than Rs. 100 Crores
Service Investment in Equipment	Less than Rs. 10 Lacs		Less than Rs. 2 Crores		Less than Rs. 5 Crores	

- Government to disallow global tenders upto Rs 200 crores, thereby protecting Indian MSMEs and other entities from unfair competition from foreign companies.
- Government to provide e- market linkage instead of trade fairs and exhibitions.
- Continuous monitoring of Government in settlement of MSME dues by Vendors. Government and Central Public Sector Enterprises (CPSEs) to release payment of MSME in 45 days.

Measures related to Employees Provident Fund (EPF)

- Under Pradhan Mantri Garib Kalyan Package (PMGKP), payment of 12% of employer and 12% employee contributions was made into EPF accounts of eligible establishments for the months of March, April and May 2020. This support will be extended for further three months i.e June, July and August 2020.
- In order to give relief in payment and more take home salary of workers who are not covered under above EPF, scheme under PMGKP, statutory EPF contribution of both employer and employee will be reduced to 10% instead of 12%.

Measures related to Non Banking Financial Companies (NBFCs)

- Government introduced Special Liquidity Scheme for NBFCs/ Housing Finance Companies (HFCs), Micro Finance Institutions (MFIs), to overcome their difficulty to raise money in debt market. Investment to be made both in primary and secondary market transactions in investment grade debt paper of NBFCs/HCFs/ MFIs.
- Existing Partial Credit Guarantee Scheme (PCGS) for NBFCs/ HFCs/ MFIs to be extended. Government to borne first 20% of loss, as a guarantor.
- Power Finance Corporation (PFC) / Rural Electrification Corporation Limited (REC) to infuse liquidity against receivables from Power Generation Companies to reduce Cash Flow

problems.

- Central Public Sector Generation Companies to provide rebate to DISCOMs, which later on to be passed on to final customers.
- One year additional period has been given for extension of the date for commencement for commercial operations (DCCO), with respect of loans by NBFCs to commercial real estate sector.

Relief to contractors

- COVID 19 will be treated as '*Force Majure*' under RERA. Registration & Completion date to be extended by Six months initially and thereafter as required.

Direct tax Measures

- Issued pending Income Tax refunds amounting upto Rs. 5 Lacs.
- Extension of due date of submission of Income Tax Return for FY 2018-19 till 30th June 2020.
- TDS for non salaried specified payments and TCS for specified receipts to be reduced by 25% of existing rate for FY 2020-21. Payment for contract, professional fees, interest, rent,dividend, commission, brokerage, etc. shall be eligible for such reduced rate.
- All pending refunds to charitable trusts and noncorporate businesses & professions including proprietorship, partnership, LLP and Co-operatives to be issued immediately.
- Due date of all income-tax return for FY 2019-20 will be extended from 31st July, 2020 & 31st October, 2020 to 30th November, 2020 and Tax audit from 30th September, 2020 to 31st October,2020
- Date of assessments getting barred on 30th September,2020 extended to 31st December,2020 and those getting barred on 31st March,2021 will be extended to 30th September,2021.
- Period of "Vivad se Vishwas Scheme" for making payment without additional amount will be extended to 31st December,2020.

Indirect Tax Measures :

- For all pending refund and drawback claims, implemented " Special Refund and Drawback Disposal Drive".
- 24 hours custom clearance till 30th June 2020
- Extension granted for filing of GST return till 30th June 2020

Measures for workers

- Universalization of right of minimum wages and timely payment of wages to all workers including unorganized workers.
- Occupational Safety & Health (OSH) Code also applicable to establishments engaged in work of hazardous nature even with threshold of less than 10 workers.
- Definition of inter-state migrant worker modified to include migrant workers employed directly by the employer.
- Portability of welfare benefits for migrant workers.
- Extension of ESIC coverage pan-India to all districts
- Mandatory ESIC coverage through notification by the Central Government for employees in hazardous industries with less than 10 employees.
- All occupations opened for women and permitted to work at night with safeguards.
- Provision for utilisation of Social Security Fund for unorganised workers.
- Gratuity for Fixed Term Employment - Provision of gratuity on completion of one year service as against 5 years.

Measures for certain Industries

- To increase self reliance and reduce import of coal production, Government to introduce competition, transparency and private sector participation in the Coal Sector through Revenue sharing mechanism and other measures. Entry normsto be liberalized.
- Enhancing Private Investments in the Mineral Sector through Structural reforms to boost growth, employment and bring state of the art technology especially in exploration. Introduce Joint Auction of Bauxite and Coalmineral blocks to enhance AluminumIndustry's competitiveness Will help aluminiumindustry reduce electricity costs.
- Indian private sector to be a co traveller in India s space sector journey. Private sector to be allowed to use ISRO facilities and other relevant assets to improve their capacities. Future projects for planetary exploration, outer space travel etc to be open for private sector.

Conclusion : This **ABHIYAN** will put India's economy back on track and would also lessen the risk of job loss. Through this **ABHIYAN**, all efforts shall be taken for the global value chain integration, which would turn local brands into global brand.

Source of information :https://sarkariyojana.com

PUZZLE - May 2020

CS Shradha Havaldar
Email : havaldar.shradha@gmail.com

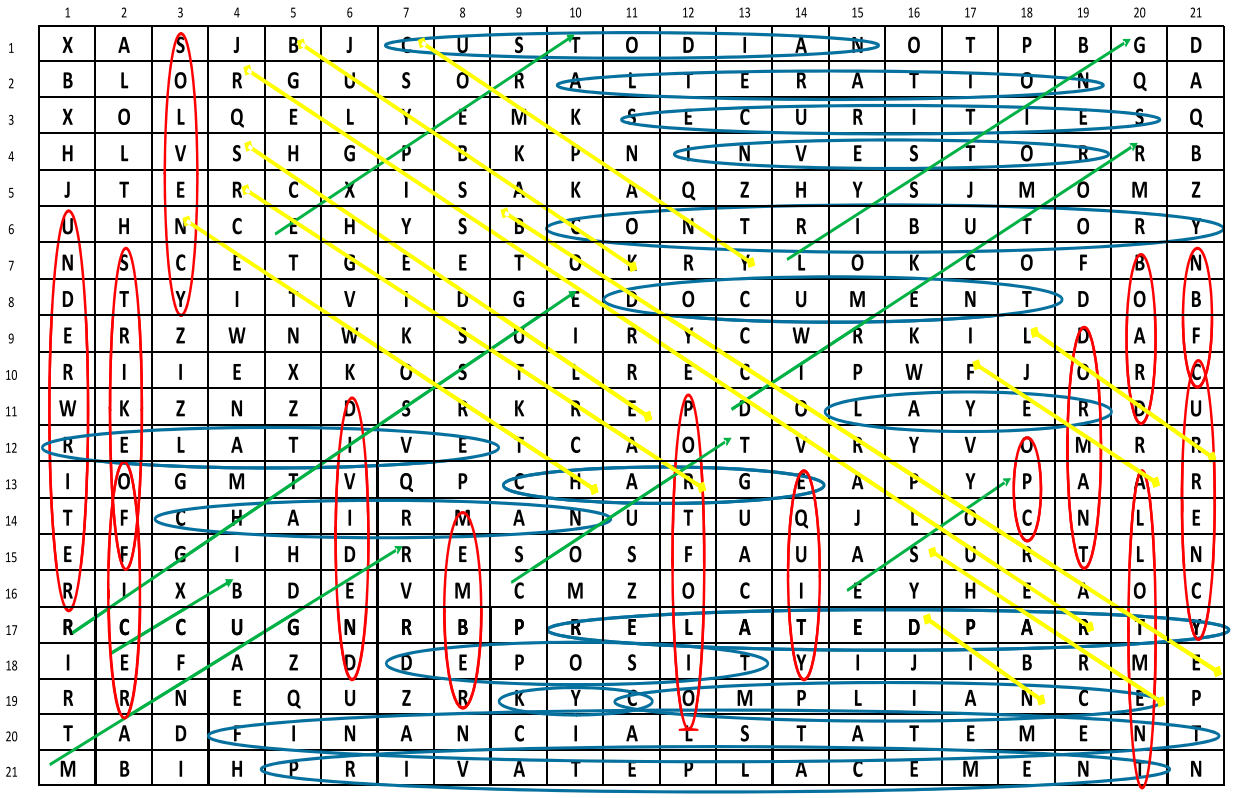
"Total 19 words to be searched"

	UNSCRAMBLE THE WORDS													
1	T	I	U	R	A	N	B	L						
2	D	E	I	A	R	V	T	I	V	E				
3	I	E	N	R	D	S	I							
4	O	M	B	S	U	A	M	D	N					
5	D	E	E	U	B	N	R	T	E					
6	Q	A	F	I	U	T	O	I	I	A	C	L	N	
7	A	G	N	R	E	E	N	M	A	R	T			
8	A	O	L	A	G	A	M	I	T	A	M	N		
9	O	P	O	S	S	E	R	P	I	N				
10	S	E	H	U	D	C	E	L						
11	I	D	V	I	E	N	D	D						
12	A	A	N	H	C	I	M	R						
13	H	I	I	A	E	T	I	N	R	B	T	A	L	O
14	I	R	N	A	O	I	S	S	M	T	N	S		
15	C	N	A	K	Y	P	T	R	B	U				
16	C	S	Y	L	O	N	V	E	N	I				
17	G	A	C	H	E	R								
18	S	P	C	O	T	P	S	U	E	R				
19	O	R	E	A	E	T	K	V						

***Name of the Chairman of Pune Chapter of ICSI (for the words highlighted in yellow colours)**

Answer - April 2020 PUZZLE

CS Shradha Havaldar
Email : havaldar.shradha@gmail.com



Words used

1 ALLOTMENT
2 ALTERATION
3 BOARD
4 BODY CORPORATE
5 BUYBACK
6 CHAIRMAN
7 CHARGE
8 COMPANY
9 COMPLIANCE
10 CONTRIBUTORY
11 COURT
12 CURRENCY
13 CUSTODIAN
14 DEPOSIT
15 DERIVATIVE
16 DIN
17 DIRECTOR
18 DIVIDEND
19 DOCUMENT

Words used

20 DORMANT
21 ECB
22 EQUITY
23 ESOP
24 EXPERT
25 FEMA
26 FINANCIAL STATEMENT
27 INDEMNITY
28 INDEPENDENT DIRECTOR
29 INSIDER TRADING
30 INVESTOR
31 KYC
32 LAYER
33 LISTING
34 LODR
35 MANAGER
36 MEMBER
37 MSME
38 NBFC

Words used

39 NET WORTH
40 NOMINAL CAPITAL
41 OFFICER
42 OPC
43 PORTFOLIO
44 POSTAL BALLOT
45 PRIVATE PLACEMENT
46 REGISTERED VALUER
47 REGISTRAR
48 RELATED PARTY
49 RELATIVE
50 RIGHT ISSUE
51 SCHEDULE
52 SECURITIES
53 SHARE
54 SMALL COMPANY
55 SOLVENCY
56 STRIKE OFF
57 UNDERWRITER

Chapter Report of ICSI-PUNE CHAPTER

From 21st April 2020 to 20th May 2020

CS Sanjay Patare, Secretary, Pune Chapter of ICSI
(Email ID: cssanjaypatare@gmail.com)

STUDENTS' TRAINING ACTIVITIES

Sr. No.	Activities conducted	Remarks
1	Online CSEET Coaching	ICSI-Pune Chapter commenced its first batch of newly introduced CSEET (CS entrance exam test) coaching through online classes. 70 students enrolled for the same from across the country.

OTHER PROGRAMS/MEETING

Sr. No.	Activities conducted	Remarks
1	Webinar on 08.05.2020	ICSI-Pune Chapter organized webinar on Revised FDI policy for 'curbing opportunistic takeovers' on 8th May 2020 from 4.00 pm to 5.30 pm. CS Vinita Nair Dedhia was the eminent faculty for this webinar. This webinar was attended by 75 delegates from Pune. One (1) PCH/CPE was awarded to CS Members who attended this webinar.
2	Webinar on 15.05.2020	ICSI-Pune Chapter organized webinar on 'Navigating deal structuring (JV/M&A/Funding) amid COVID-19' on 15th May 2020 from 7.00 pm to 8.30 pm. CS Vivek Sadhale was the eminent faculty for this webinar. This webinar was attended by 75 delegates from Pune. One (1) PCH/CPE was awarded to CS Members who attended this program.

List of Winners of Research Paper Competition organised by Pune Chapter

Sr No	Topic Name	Name of the participant	Membership No	Rank
1	Impact of epidemic on contracts and moratorium given by MCA	CS Nikita Navindgikar	A30983	1
		CS Deepti Dole	F9713	2
		CS Megha Varma	A61116	3
2	Recent Changes in IBC	CS Bhargavi Bhide	A32987	1
3	Indian Economy after the Lockdown	CS Anirvinna Bhave	A58236	1
4	Use of CSR Funds by Companies	CS Surabhi Mehta	A54591	1
5		CS Shweta Kakkar	A20229	2
6		CS Megha Varma	A61116	3
7	Significant Beneficial Ownership (SBO)	CS Surabhi Mehta	A54591	1

THE INSTITUTE OF
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IN PURSUIT OF PROFESSIONAL EXCELLENCE
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(Under the jurisdiction of Ministry of Corporate Affairs)

13th June, 2020

IMPORTANT ANNOUNCEMENT

Subject : Postponement of CS Examinations, June-2020 Session

The Institute of Company Secretaries of India, after considering the prevalent situation due to COVID-19 Pandemic, has decided to further postpone its June-2020 Session Examinations of Foundation Programme, Executive Programme, Professional Programme and Post Membership Qualification (PMQ) scheduled to be held from 6th July to 16th July, 2020.

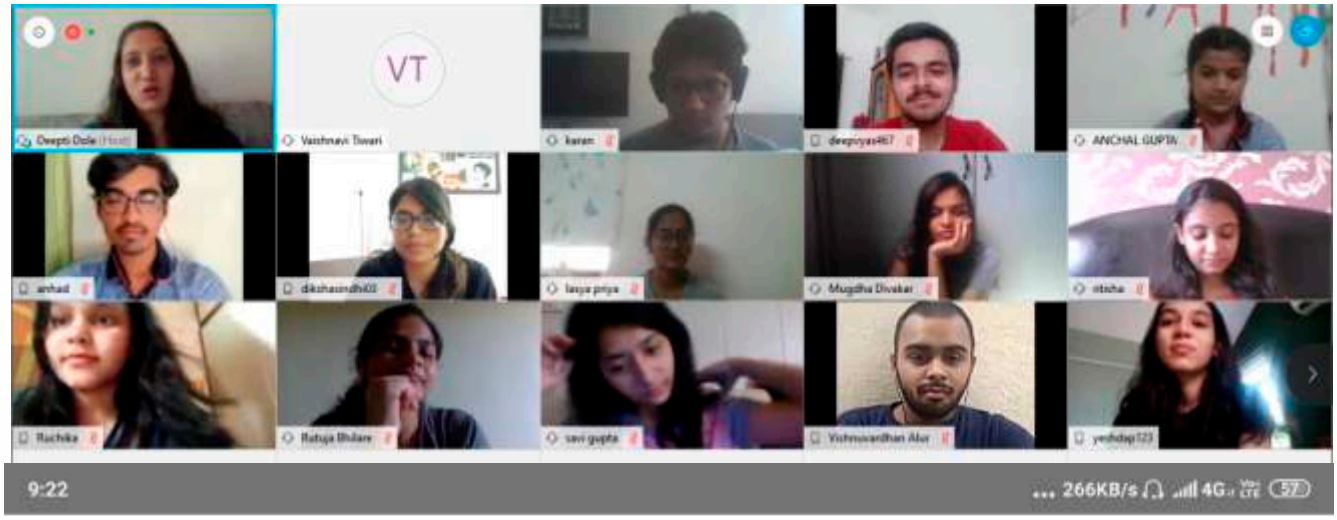
The examinations of the above session **will now be held from 18th August to 28th August, 2020**. Examination Time-Table for the above is available on the Institute's website: www.icsi.edu .

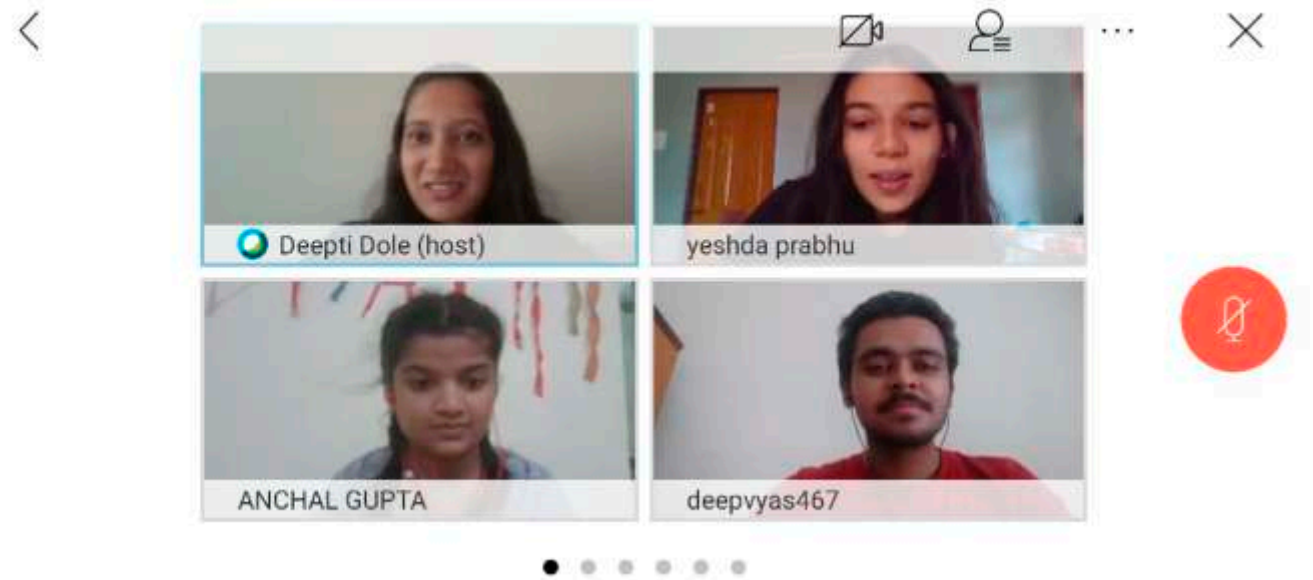
13/06/2020

(Dr. Sanjay Pandey)
Joint Secretary
Directorate of Examinations

Memory Refreshing

"Glimpses of Online Oral Tuition Classes conducted by Pune Chapter of ICSI"





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PUNE CHAPTER

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