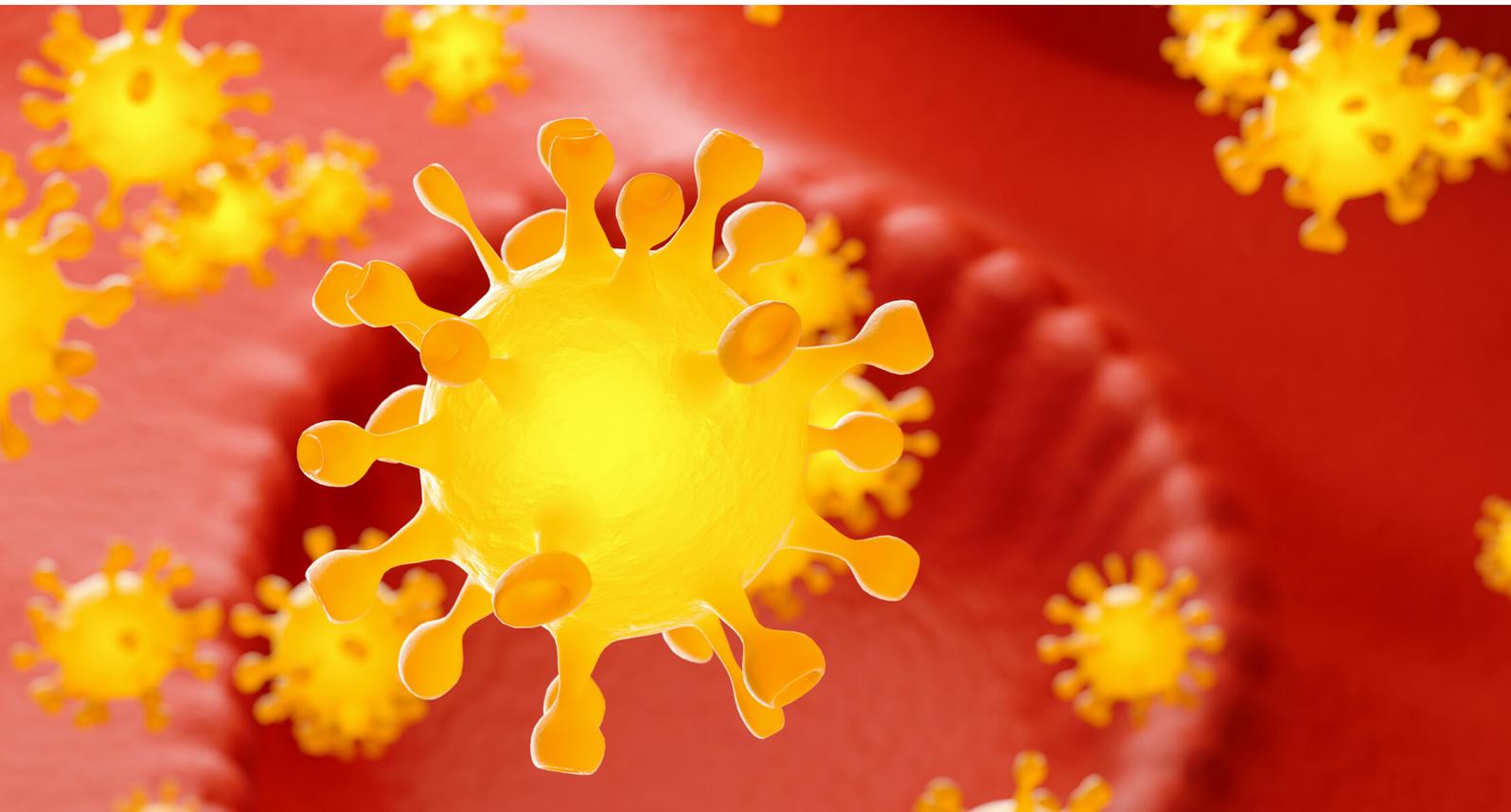


April, 2020



# COVID-19 OUTBREAK

TECHNO, COMMERCIAL & LEGAL VIEW ON INDIAN BUSINESSES



**Pandemic Legal intelligence Series - COVID | X**

**AHMEDABAD | BENGALURU | NEW DELHI | KOLKATA | MUMBAI**

## Evaluation of Impact on Economy

**Traders** at the receiving end of problems.

**Companies** - Will they perish under the burden of the statutory and regulatory compliance?

Will **MSMEs** sink with the economy?

Increase in demand of **Life & Health Insurance**.

**Pharma Sector**, the need of the hour!

Logistics - Is it affecting the **supply chain**?

Impact on **Judiciary**- India and Globally



## What are the problems faced by TRADERS?

With the sudden outbreak of the pandemic all countries around the globe are facing severe difficulties, not only medically but also economically.

India is no exception.

There are several questions arising in the minds of business traders, suppliers of essential commodities, factory owners, etc. because of the **unforeseen lockdown** in the country.

The Government has been releasing several notifications and circulars to give a clear picture to the traders and minimize the confusion.

Along with the Small and Medium sized enterprises, the big companies are also facing disruption in the cycle which is leading us towards an economic slowdown.



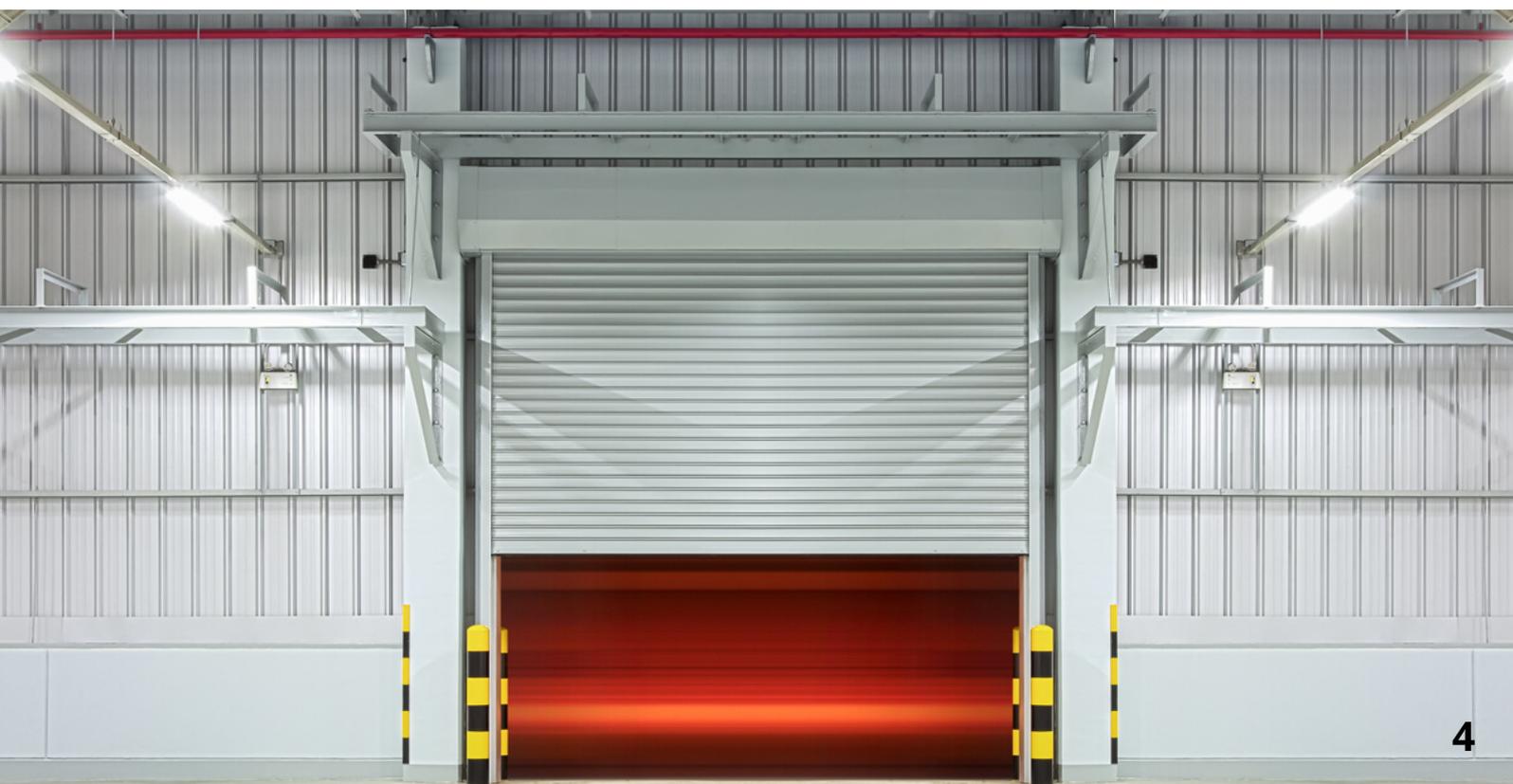
Because of the pandemic we have all been sent to square one again,  
growth wise.

**Sectors like tourism, aviation, Industries, construction, etc.** have been asked to put down their shutters while still paying taxes, rents and other expenses to their employees.

The Union Finance Minister addressed the country for extending timelines and providing relaxations toward compliances in order to calm the panic among the masses.

Efforts have been made by non-profit organisations amidst the financial crunch being faced by MSMEs to request waiving off bills and dues which were beyond the control of the units.

The country foresees an acute impact on GDP because of the lockdown due to the pandemic.



**COMPANIES - Will they perish under the burden of the statutory and regulatory compliance?**

Due to the widespread outbreak of Coronavirus (COVID-19), it is the need of the hour that the pandemic scenario is not allowed to worsen, thereby mandating a nation-wide lockdown. The entire economy has been forced to come to a standstill and unanticipated future lies ahead of us owing to the unprecedented situation before us. With the financial year end right around the corner, the most affected entities of the economy currently are the Companies.

**Companies are usually fraught with the task of meeting with all pending statutory compliance in the last month of the Financial Year.**

Since non-compliance with these statutory obligations can lead to dire consequences and often penal liabilities for companies, the ongoing lock down owing to the COVID-19 pandemic is nothing short of a nightmare for the corporates.

With next to no outputs and low profit margins, if a company is made liable to spend a major part of its budget on penal liabilities, it can lead to a catastrophe for the company's existence.

**Hence it is imperative that Companies introduce apposite policies after conducting appropriate risk analysis in consultation with experts for damage control.**



Apart from the varied, one-time filling compliances, the Companies also have to comply with certain statutory mandates for the functioning of their corporate activity and existence.

The Government has been considerate of the sudden and crucial timing of the lockdown and **has released several notifications to bring some relief to the corporate entities.**



## CSR Spending towards Covid-19

On 23.03.2020 the Ministry of Corporate Affairs vide its Circular allowed companies to use their **Corporate Social Responsibility** measures to fight COVID-19.

As per the **Circular**, in view of the worldwide pandemic and its spread in India, the Government of India, notified it as a national disaster and hence it was clarified that the amount spent by companies on activities relating to COVID-19 will be eligible CSR activity.

It was further clarified that funds may be spent for various activities related to COVID-19 and that items classified as CSR activities in Schedule VII of the Companies Act, 2013 are broad based and may be interpreted liberally for this purpose.

By way of this notification, the Government provided a major relief to the Companies by providing them with a lenient pathway of giving something back to society. Additionally, the Government was able to channel all these funds to a cause where such funding was much necessary.





The Advisory entails the following:

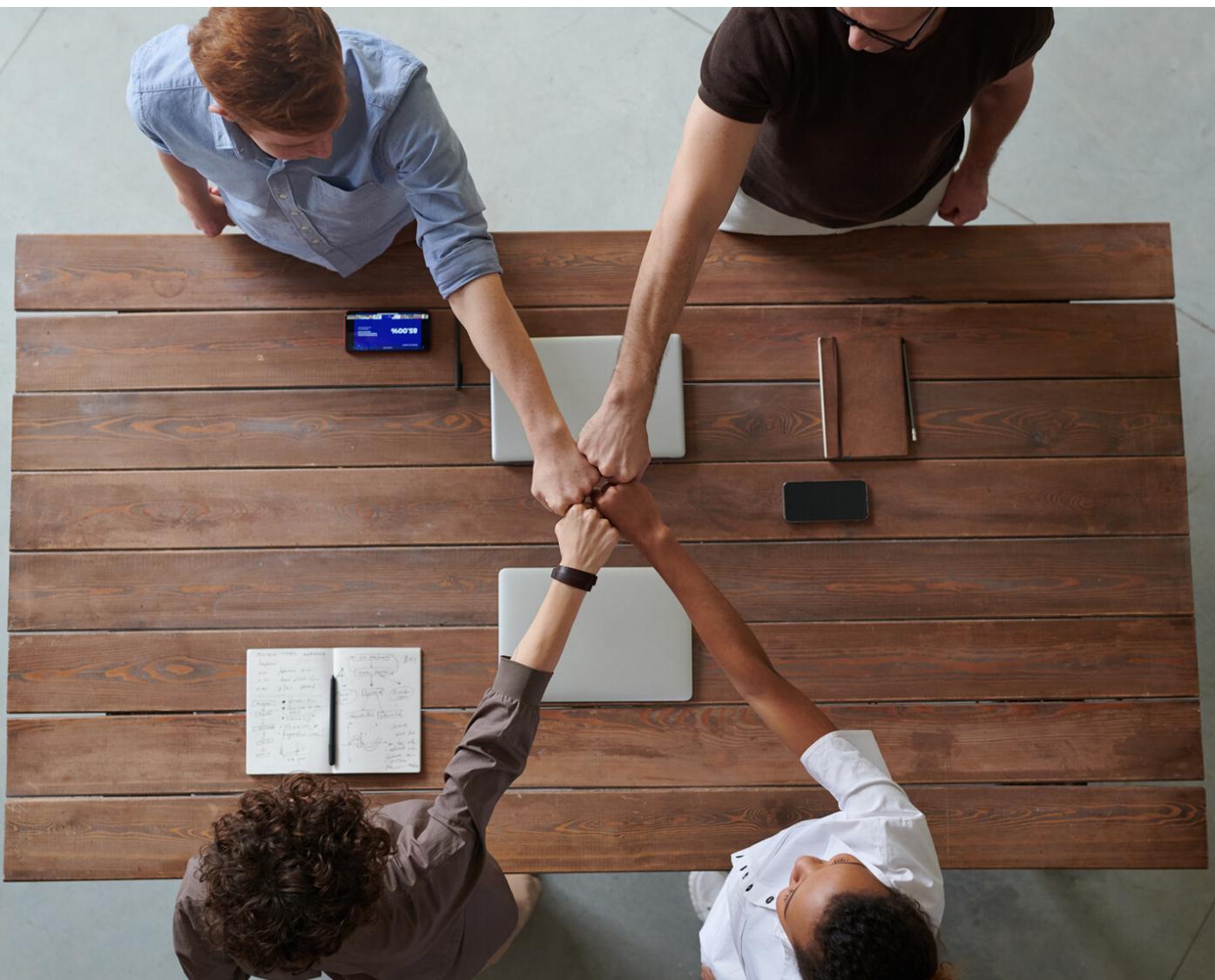
1. Implementation of **Work from home** in the headquarters and field offices to the maximum extent feasible for all activities related to functioning of the Company.
2. Implementation of **staggered timings** for staff working in office premises to minimize physical interaction.
3. Standard set of **'do's' and 'don'ts'** advised by public health authorities to be strictly followed.



## Form CAR To Be Filed For Confirming Compliance With Covid-19 Measures

The Ministry of Corporate affairs introduced a simple web form for Companies/LLPS to confirm their readiness to deal with the COVID-19 threat, in pursuance of the 'work from home advisory'.

A web form named **CAR (Company Affirmation of Readiness towards COVID-19)** would be required to be filled by an authorised signatory of companies and LLPS.



**Form CAR-2020 has been deployed on March 23, 2020.** All companies/LLPs have been requested to report compliance using the web service w.e.f. 23rd March 2020 at the earliest convenience.

It has further been clarified by MCA on filing Form CAR 2020 that there is no penalty or enforcement related action applicable. This form is deployed as a purely voluntarily and confidence building measure to assess readiness of companies to deal with COVID-19 threats in India.

**Further, there is no fee applicable for filing this form.**



## Relaxation Provided To Companies By SEBI

On March 19, 2020, SEBI issued **Circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/38** dated **19.03.2020**, granting relaxations in the timelines in respect of the below-mentioned requirements under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR”).

Further, vide **Circular No. SEBI/HO/DDHS/ON/P/2020/41** dated **23.02.2020**, SEBI gave extension in the due date of the issuance and filings of **Non-Convertible Debentures Non-Convertible Redeemable Preference Shares (NCRPS)/ Commercial Paper(s)**.



Additionally as per the **Circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/48 dated 26.3.2020** SEBI has extended the due date of the requirement of **Annual General Meeting of top 100 listed companies**. Other relaxations under the mentioned circular have been given to the companies pertaining to advertisements in newspapers regarding various notices under **LODR Regulations, 2015**. Companies have been exempted from the compliance of the Regulation under **LODR Regulations, 2015**.

SEBI has also issued certain relaxations with respect to **filing of report by the shareholders as per the SAST Regulations by April 2020**. The extension has been provided and the same has to be now **filed by June 01, 2020**.



## MSMEs - Will they survive this wave?

Enterprises in the manufacturing and service sector having an investment according to the thresholds mentioned in the **Micro, Small and Medium Enterprises Development Act, 2006** (“MSMED Act, 2006”) are covered under this Sector.

These enterprises already have a weak root and were not ready to face an epidemic like this therefore, it becomes hard for them to survive.

**A sector that creates maximum employment in India is facing difficulties in delivering salaries let alone meeting TDS, PF and other requirements.**

The Government gave several leverages and encouraged such enterprises on earlier occasions but now in the time of crisis, these enterprises are expecting speedy reliefs addressed specifically for them.



Additionally, steps have been taken to prevent the closing down of MSMEs by **increasing the threshold to Rs. 1 Crore under the Insolvency and Bankruptcy Code, 2016 (“I&B Code”)**.

Further, the Small & Medium Enterprises should be given priority while deferring payments from a company undergoing insolvency as per the I&B Code.

**The Confederation of the Indian Industry (“CII”)** has initiated a fund called the **CII COVID Rehabilitation and Relief Fund (“CRR Fund”)** to assist the MSMEs to stick in the market. The Government can also devote a fund in order to assist the Sector.

Herewith are several suggestions in order to prevent the MSMEs from sinking.



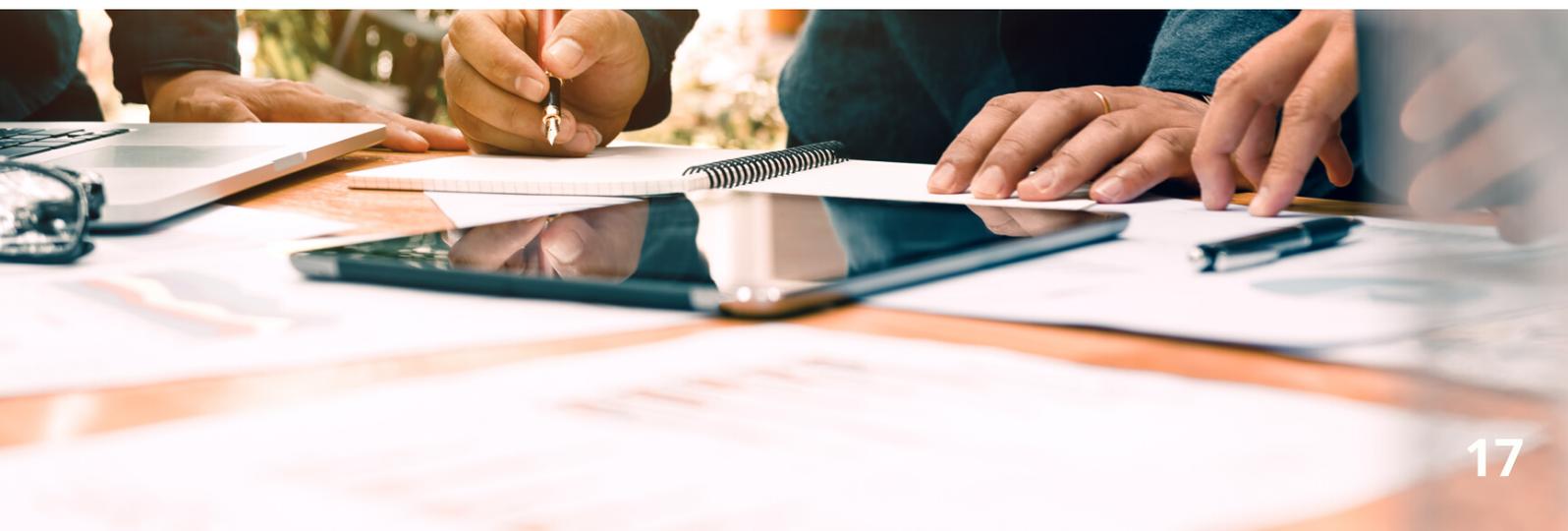
**The MSMEs or any other business for that matter, will be affected by the following:**

- i. GST Invoices which are due, to be paid irrespective of payment received from the customers or not;
- ii. Cancellation or reduction of orders placed by retailers or other traders;
- iii. Cancellation of reservations;
- iv. Increase in bad debts; etc.

### **Steps taken by the Government**

#### **Direct Tax**

The **Central Government** has relaxed the provisions with respect to **interest on delayed payment of tax and waiver of late fees**. The interest on delayed payment of tax for the period of February to April 2020 has been waived off for taxpayers having turnover below Rs. 5 Crore, if such taxpayer makes payment of tax by last week of June 2020. The taxpayers with turnover of Rs. 5 Crore and above, have been granted a grace period of 15 days from actual due date of payment and thereafter, reduced rate of interest @9% p.a. will be applicable



Further, the **Central Government** has extended the due dates for various compliances and waived off the late fees on delay in filing of returns, subject to fulfillment of certain conditions. This shall make a huge difference in the working and sustenance level of the enterprises.

### **Goods & Services Tax**

The restriction on availment of Input Tax Credit based on invoice details which are not reflected in GSTR-2A has also been deferred for the period from February 2020 to August 2020. **This will help the enterprises to reduce the outflow of cash.**

The Government can help in a **strategic manner** if they introduce contingency plans for the coming months for employee welfare and by ensuring easy access to funds and supply.

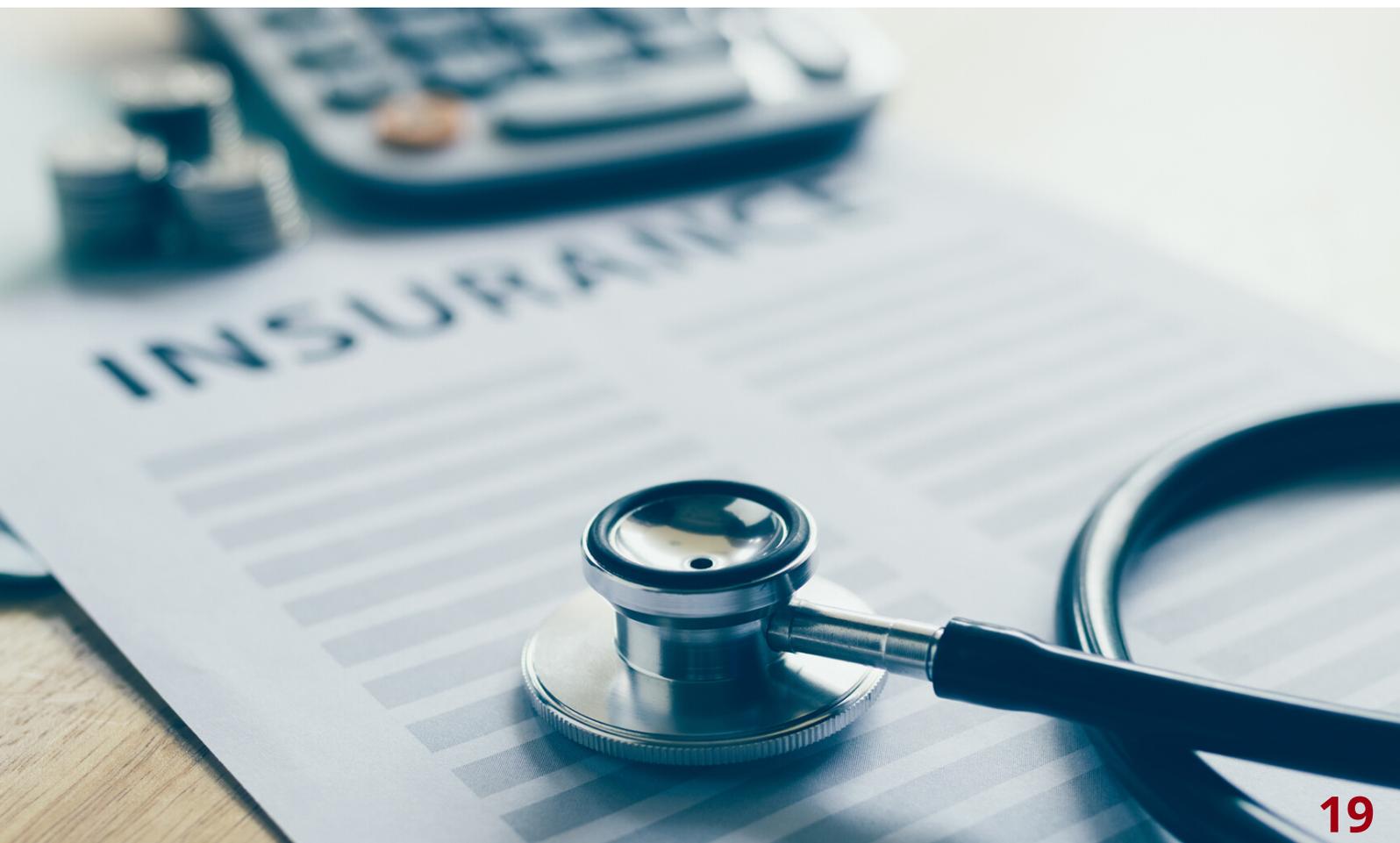


## **INSURANCE - Are you secured?**

As a result of the outbreak of the pandemic, reports suggest that the **demand for life and health insurance has increased multi-fold.**

Insurance companies are taking initiatives to come up with specific Insurance plans for Corona Virus patients and are including COVID-19 in the current health insurance plans.

**The Insurance Regulatory and Development Authority of India (“IRDAI”)** has given certain relaxations for the policy-holders during the time of lock-down.



The IRDAI vide Circular No. IRDA/Life/Cir/MISC/072/03/2020 dated 23.03.2020 addressed all the life insurers and gave instructions regarding the timelines during COVID-19 outbreak.

The following **relaxations** are provided under the said Circular:

- i. Policy holders to be kept informed about the **functioning offices, methods of premium payments, claim submissions;**
- ii. **Start call centers** for easy resolution of queries;
- iii. **Grace period of a month** for the premiums that were due in the month of March, 2020;
- iv. Any claims received should be addressed and settled **expeditiously**; and
- v. **Periodic Report** for claims related to COVID-19 to be submitted to IRDAI.



**On 28.03.2020, IRDAI further issued Relaxation of timeline for certain provisions of the IRDAI (Re-Insurance) Regulations, 2018 as under:**

- i. File Re-Insurance Programme by 30th April, 2020 approved by the Board;
- ii. The insurers may comply with the timelines on or before 31st May, 2020;  
and
- iii. The relaxations are for the Financial Year 2020-21 only.

Therefore, the relaxations and instructions have helped in settling the repercussions of **delayed payment of premiums.**

Also, **digital payments and other online facilities** are to be ensured for smooth delivery of services and entertainment of claims.



## **Pharma Sector: Essential amongst the essentials**

The sudden outbreak of Pandemic COVID-19 in the country had resulted in a huge requirement of medicines and sudden surge of the medical products such as masks, hand sanitizers, etc.

**The Pharma Sector in India is not self-sufficient and is highly dependent on China for primary components such as electronic parts for various medical devices.**

The complete lockdown owing to pandemic COVID-19 has led to enforcement of strict guidelines for clearance and movement of goods both across National and State Borders.



Most of the medical devices such as infrared or non-contact forehead thermometers being used at public places for screening are imported as a whole, without any indigenous manufacturing. This may lead to acute shortage in near future. Therefore, the shortage of inputs and restrictions on export will create a situation of panic.

**The World Health Organisation (“WHO”) has called upon the governments for increasing the manufacturing by Pharma industries by 40 per cent in order to meet up the global requirement.**

The Government has done its best in ensuring that pharmaceutical manufacturers do not face any shortage of supply of raw material or labour or any other services related directly or indirectly. This is to ensure that all types of medicines are always available in the market.



The **Letter F. No. 21(2856)/Div. IV/2020/NPPA dated 26.03.2020** as issued by the National Pharmaceutical Pricing Authority (NPPA), a wing of the Government of India under the Department of Pharmaceuticals has also given instructions for unobstructed movement of pharmaceutical goods in light of the **Ministry of Home Affairs order no. 40-3/2020-DM-I(A) dated 24.03.2020 and 25.03.2020**.

Furthermore, the Ministry of Consumer Affairs, Food and Public Distribution through **Notification No F. No. 26(1)/2020-ECR&E, dated 13.03.2020** has included **masks and sanitizers** under the **Essential Commodities Act, 1955** and thereby allowing their movement during the lockdown period to meet the demand all over the country.

Moreover, there can be fast track clearance at the ports of entry and custom clearance house and provision of logistics support in order to meet up the demand of critical medical supplies in time.

Further, there is a need for **proper checks and balance on manufacture of essential medical supplies** such as hand-sanitizers, masks and other personal protection equipment in order to **maintain outreach, prevent hoarding and unreasonable price hikes and to ensure easy availability of the same**, both for medical practitioners and general public.



## Logistics - Affecting the Supply Chain

Whilst India is finding it difficult to move on, the vast segment of logistics that is considered to be the lifeline of the nation holds acute importance as it connects various markets, suppliers and customers across the nation.

The Government via **Notification No.40-3/2020-DM-I (A) dated 29th March 2020** permitted transportation of **all essential and non-essential goods**.



The lockdown has also reduced the availability of labour force which has adversely affected the scope of smooth movement. Due to shut down of public transport, the available labour force needs to walk to and fro their workplace, reducing the productivity.

**Airports, Customs and Ports are currently functioning with limited staff, however, there still exists a challenge to ensure delivery of the stuck imports.**

The Director general of shipping has recommended shipping lines to not impose any container detention charges on the imports till April 7, 2020.



## Impact on Supreme Court

The Secretary General of Supreme Court of India via Notification dated 13.03.2020 has conveyed that the **Supreme Court would be functioning from 16.03.2020 only for taking up the urgent matters and permitting only one litigant for making oral submissions.**

Moreover, the Supreme Court while exercising its special powers as laid down under Article 142 of Constitution of India in **Suo-Motu Writ Petition (Civil) No. 3/2020** has also passed an order suspending the limitation period both under the General and Special Laws retrospectively from 15.03.2020, until further notice, in light of the difficulty on part of litigants owing to pandemic COVID-19. The order read as follows:

*"To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings."*



Amidst the complete lockdown, the Supreme Court in order to prevent complete shutdown of justice delivery has announced to **conduct the hearing of urgent cases through Video Conferencing from 23.03.2020 through Circular dated 23.03.2020.**

The Supreme Court has decided that limited number of judges working during the lockdown to hear urgent cases shall sit in the court rooms and the Advocate appearing in the case shall make their submissions through an isolated monitoring room within the court premises.

The aforesaid initiatives taken by Supreme Court are a step towards the very objective behind various measures for prevention of COVID-19 i.e. **Social Distancing while delivering justice in urgent cases pending before Courts of Law.**



## Impact on High Courts

Owing to the lockdown in India, the High Courts have either completely suspended functioning or have restricted the functioning to extremely urgent cases only.

### Circulars/Notifications/Orders issued by a few High Courts in the Country are as follows:

- i. **High Court of Delhi:** Via **Office Order No.194/RG/DHC/2020** dated **25.03.2020** has passed an order directing suspension of functioning of work of the High Court till 15.04.2020.
  
- ii. **High Court of Rajasthan:** Via **Circular No. 12/PI/2020** dated **24.03.2020** has directed for taking up extremely urgent case that too through Video Conferencing only. Thereafter the High Court via **Circular No. PA/RG/Misc./20** dated **30.03.2020** had adjourned the matter listed from 01.04.2020 – 09.04.2020 and will take up urgent matters till 14.04.2020.



**iii. High Court of Calcutta:** Via **Notification No. 1498 RG dated 24.03.2020** has directed for suspension of working of High Court during the Lockdown period from 25.03.2020 – 09.04.2020 except for two special benches on 01.04.2020 and 08.04.2020 respectively.

**iv. High Court of Bombay:** Via its **Notification dated 14.03.2020** has suspended the function of High Court except for the urgent matters and restricting the Number of litigants appearing in a case in the court room.

**Similarly other High Courts of the country have either suspended the complete functioning during the lockdown or restricted the same to urgent matters only.**



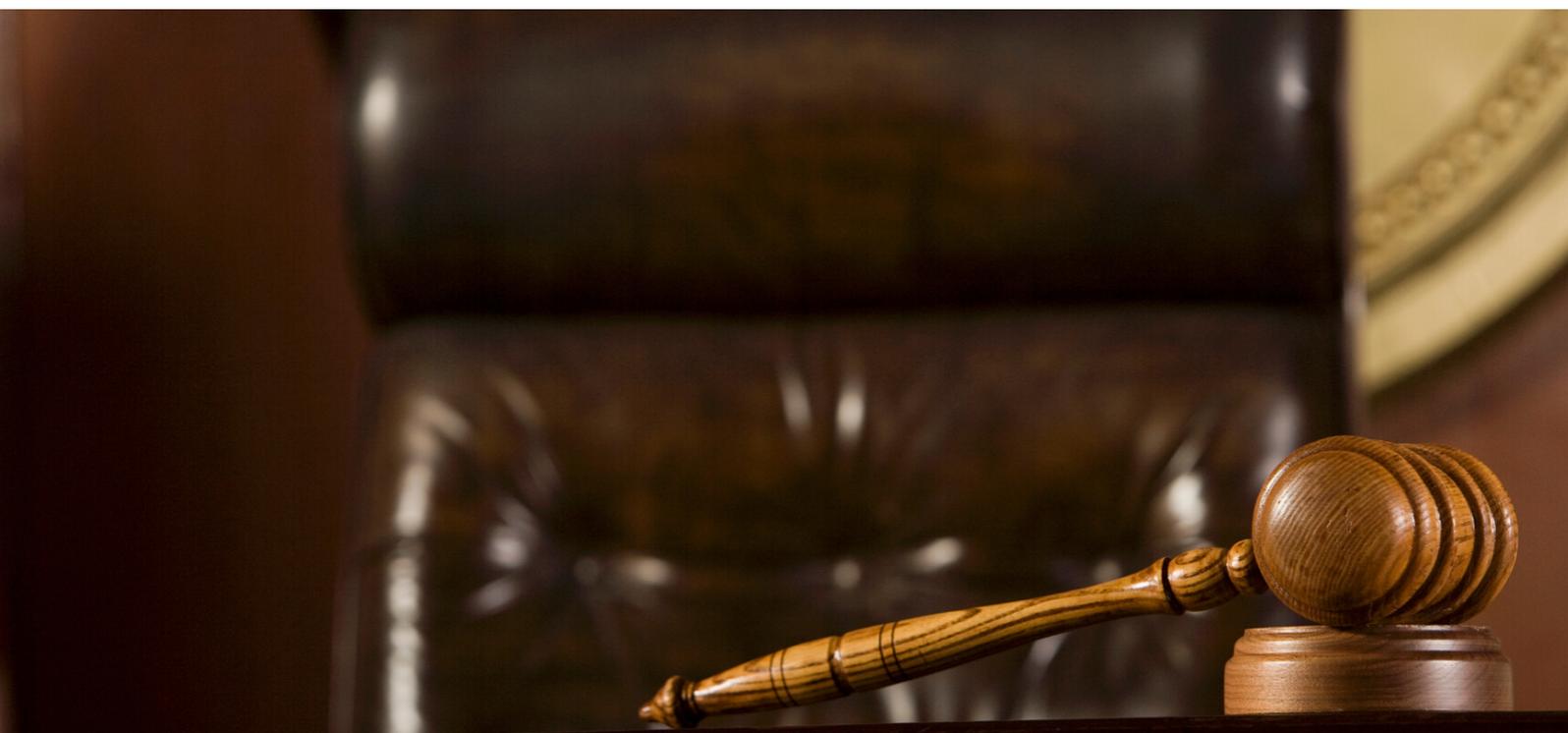
## Impact on Tribunals

### I. NCLT

Prior to the orders of Complete Lockdown from the Central Government, the following notices came into effect;

1. Notice issued on **15.03.2020** directing all **NCLT Benches to take up urgent matters only** on a request being made by concerned parties;
2. Notice issued on **19.03.2020** directing **closure of filing counters of all Benches till 27.03.2020**;
3. Notice issued on **22.03.2020** directing **closure of all NCLT Benches for judicial work from 23.03.2020 till 31.03.2020**.
4. Notice issued on **30.03.2020** directing **listing of all matters listed from 23.03.2020-14.04.2020 from 15.04.2020 onwards**.

Amidst all these notices, the Central Government enforced the complete Lockdown in the country for 21 days.



Owing to the complete lockdown in the Country and the closure of all NCLT benches, the filing and hearing of cases against companies has become problematic.

In order to tackle with a situation wherein hearing of cases is of utmost urgency, the Benches can go ahead with Video Conferencing on request of litigants after taking into consideration the urgency in matters.

Further, with respect to filing cases wherein limitation period is running out, the Supreme Court has already settled the position by excluding the time period exhausted in pandemic COVID-19 from limitation period for filing a case.



## II. CESTAT

Owing to the Complete Lockdown in the Country and referring to the guidelines issued under **Order No. 40-3/2020-DM-I(A) dated 24.03.2020 and 25.03.2020 by the Ministry of Home Affairs, the CESTAT, Delhi came up with a notification dated 26.03.2020.**

The said notification declared **closure** of all Benches of the Tribunal including the Regional Benches from **30.03.2020 till 17.04.2020.**

The aforesaid notification also took into consideration the relief provided by the Supreme Court in **Suo Motu Writ Petition (Civil) No. 3/2020** under Article 142 of the Constitution of India with regards to the applicability of Limitation Period.

It further notified that the orders kept for pronouncement during the said period would be pronounced on the next working day subject to prior permission of the President. **ITAT for income tax is also working on the same line.**



## Impact on Judicial Systems Globally

“Justice delayed is Justice denied” has come under test during the challenging times of the outbreak of COVID-19.

The **Supreme Court of India** was hearing only urgent matters through Video Conferencing and had extended the Limitation period for all cases from 15th March, 2020 till any further instructions are released by the Court vide *Suo Moto Writ Petition No. 3 of 2020*.

The **Supreme Court of the United States of America** has closed the building until further notice and have extended deadlines to file any petition for a writ of certiorari. And the applications received for condonation of delay shall be granted provided the ground is difficulties faced because of COVID-19. The delay should be a reasonable one.

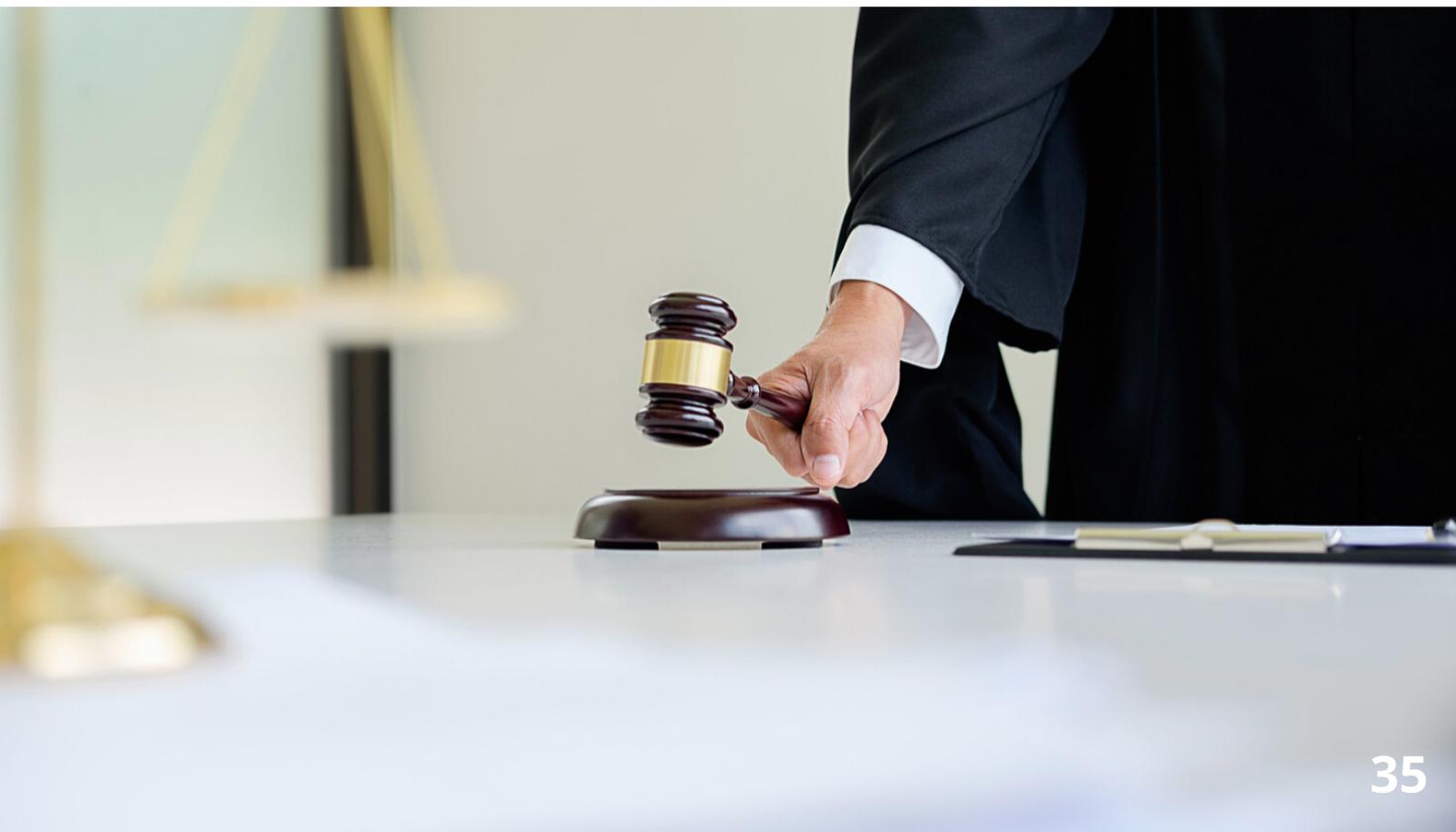
Similarly, the **Supreme Court of the United Kingdom** is carrying out urgent proceedings through video conferencing and thereafter, streaming the hearing and judgments on the website.



Different Courts have closed the judicial buildings and have only restricted functioning to those premises that are mandatory or necessary for the permissible proceedings before the Courts. Further, the filing of documents is being done through e-mail correspondences.

Even though the circumstances are unavoidable, the problems of excessive burden on the Courts and backlog of cases will only rise to another level.

However, the judicial systems around the world are everyday trying to impart justice and achieve the aim of speedy disposal of cases even in such unprecedented times. The Courts addressing the rights of the people during the crisis that has hit the globe reinstates the faith in the system.



## ABOUT US

AMLEGALS is a multi-specialised law firm. We would love to hear your views, queries, feedback and comments on [covid19@amlegals.com](mailto:covid19@amlegals.com) or [rohit.lalwani@amlegals.com](mailto:rohit.lalwani@amlegals.com).

## AHMEDABAD

201 - 203, WestFace, Opp. Baghban Party Plot,  
Zydus Hospital Road, Thaltej, Ahmedabad – 380 054,  
Gujarat, India.  
+91 - 84485 48549 | +91-83478 53565 | +91- 84605 48996  
[www.amlegals.com](http://www.amlegals.com) | [info@amlegals.com](mailto:info@amlegals.com)

## MUMBAI

1207, Dalamal Tower, Nariman Point, Mumbai – 400 021,  
Maharashtra, India.  
+91 - 84485 48549 | +91-88511 67622 | +91-22-6666 6265  
[www.amlegals.com](http://www.amlegals.com) | [mumbai@amlegals.com](mailto:mumbai@amlegals.com)

## KOLKATA

3rd floor, Surabhi Building,  
8/1/2 Loudon Street, Beside Birla high School for Girls,  
Kolkata- 700017, West Bengal, India  
+91-9999764317 | +91-84485 48549  
[www.amlegals.com](http://www.amlegals.com) | [kolkata@amlegals.com](mailto:kolkata@amlegals.com)

**NEW DELHI | BENGALURU | JAIPUR | PUNE | CHENNAI | ALLAHABAD**



“Correct Knowledge & Legal Strategy matters the most in law.”

© Copyright **AMLEGALS**.

*Disclaimer: The information contained in this document is intended for informational purposes only and does not constitute legal opinion, advice or any advertisement. This document is not intended to address the circumstances of any particular individual or corporate body. Readers should not act on the information provided herein without appropriate professional advice after a thorough examination of the facts and circumstances of a particular situation. There can be no assurance that the judicial/quasi-judicial authorities may not take a position contrary to the views mentioned herein.*