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NEWSLETTER

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Corporate Laws

Latest update, News and Judgments

1. Govt. revisits FDI norms to block hostile takeover of Indian Cos. by neighboring countries amid Covid-19 pandemic

Press Note No. 3(2020 Series), Dated 18.04.2020

The Government has made amendment to the FDI norms amid COVID-19 pandemic to protect any opportunistic takeover by neighbouring countries. As per the new FDI norms, any foreign investment by neighbouring countries into Indian Companies would require Government approval. The Press Note No. 3 (2020 Series) specifies that “an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.”

2. RBI's Liquidity Infusion Initiatives announced on 17.4.2020

Remedial Measures Announced by the RBI on 17-4-2020

In order to address the above paradox, and to maintain adequate liquidity in the socio-economic system and its constituents, in the face of COVID-19 related dislocations, and to ease out financial stress of small and medium sized sectors and entities, the RBI's Hon'ble Governor, Sh. Shakti Kant Das, has announced a host of Relief and Remedial Measures as under:

a. Reduction in Reverse Repo Rate

The RBI had cut reverse repo rate by 90 basis points to 4% on 27th March 2020. On 17-4-2020, the RBI had further reduced reverse repo rate by 25 basis points to 3.75%.

Reverse repo rate is the rate of interest, at which the commercial banks lend their surplus money/funds to the RBI.

A decrease in reverse repo rate means that commercial banks will get less interest/incentives to park their funds with the RBI, thereby motivating them to lend more money to the borrowers.

Repo rate is the rate at which the Banks borrow from the RBI, and this rate has



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been kept intact at 4.4% on 17-4-2020.

So, the difference between the rate of borrowing and lending by commercial banks from the RBI is now 65 basis points.

Banks are borrowing at an interest rate of 4.4% from the RBI and have the option to lend at a multiplier rate ranging from 8% to 14%. That is the incentive given by the RBI to increase the money supply in the economy.

However, due to the recent Banking/NBFC systemic failures like that of YES bank, IL&FS, Dewan Housing Finance Corporation Ltd., PNB-Mehul Choksy-Nirav Modi fiasco, to name a few, the Banks tend to behave in an over cautious and a knee-jerk reactive manner now, with the tendency of static decision making concerning lending of loans and advances to the needy and deserving borrowers.

This extra cautious approach of the Banks in lending money is resulting in the worsening of the liquidity crisis for the cash deprived needy borrowers mostly MSMEs.

However, it is expected and desirable, that as a result of this pro-active initiative of the RBI in reducing the reverse repo rate by 115 basis points over a very short period of time, the Banks will be more willing and encouraged to lend their surplus funds to the needy and deserving borrowers, as they have to take the plunge of either to lose 65 basis points if they park their surplus funds with the RBI or to stand to gain almost 10 percentage points in interest, if they lend.

b. Targeted Long-Term Repo Operations (TLTRO)

A further disturbing phenomenon, which is being seen and observed currently, is the tendency of the Banks to lend money only to big corporate players, who are already cash rich and their hesitation and shyness in lending money to the needy and liquidity deprived MSMEs and lower strata of the economical pyramid.

The first round of liquidity infusion of Rs. 1 trillion being injected into the banking system, by the RBI, through Targeted Long Term Repo Operations (TLTRO 1.0), has not produced the desired results as the money has not found its way to the liquidity constrained sectors and small and medium sized entities/MSMEs and instead has gone into the pockets of big corporate entities and PSUs, who were already enjoying robust liquidity.

On 17-4-2020, the RBI has put another Rs. 50,000 crore as part of TLTRO 2.0. However, learning from the experience of TLTRO 1.0, an additional condition has been imposed by the RBI, wherein, the Banks can only get this money if they lend to NBFCs and Micro Finance Institutions (MFIs).



TLTROs are sector specific relief measures of the RBI, in the form of mid-term loans, to ensure adequate liquidity at the longer end of the yield curve to sectors and entities which are experiencing liquidity constraints and/or hindrances to market access.

c. Refinancing Facilities to AIFIs

In view of the tightening of financial conditions in the wake of the COVID-19 pandemic, another Rs. 50,000 is to be provided as refinance facility to the three All India Financial Institutions (AIFIs), *i.e.* the NABARD, SIDBI and NHB, to facilitate and encourage smooth and seamless flow of credit to the small-scale firms, rural sector, housing finance firms, NBFCs and MFIs. Again, this should help in money reaching the last mile.

d. Easing of Asset Classification Norms

On March 27, 2020, the RBI had permitted the Banks & Lending Institutions to grant a moratorium period of three months to the borrowers on payment of their current dues falling between March 1 and May 31, 2020.

The hon'ble RBI Governor on 17-4-2020 has further announced an easing of asset classification norms for all accounts where moratorium or deferment has been applied. This essentially means that in respect of all such accounts, where moratorium or deferment of three months, has been applied, and which were standard as on 1-3-2020, the 90-day NPA norm shall exclude the moratorium period, and there will be an asset classification standstill on all loans covered under the moratorium from 1 March to 31 May 2020.

However, banks will have to maintain additional 10% provisioning on these standstill accounts over two quarters of March 2020 and June 2020, which may put pressure on their balance sheets. These provisions can be adjusted later on against the provisioning requirements for actual slippages in such accounts.

e. Extension of Resolution Timeline

Under RBI's prudential framework of resolution of stressed assets dated June 7, 2019, in the case of large accounts under default, Scheduled Commercial Banks, AIFIs, NBFC-ND-SIs and NBFC-D are currently required to hold an additional provision of 20 per cent if a resolution plan has not been implemented within 210 days from the date of such default.

Considering and recognising the practical challenges to the resolution of stressed assets in the current COVID-19 driven environment, the RBI on 17-4-2020, has announced that the period for resolution plan shall be extended by 90 days.



f. Reduction in Liquidity Coverage Ratio

The central bank has also lowered the Liquidity Coverage Ratio (LCR) requirement for banks to 80% from the existing 100%, with immediate effect. This will be gradually restored in two phases - 90% by 1st October, 2020 and 100% by 1st April, 2021. LCR is the proportion of high liquid assets that banks have to keep, to meet their short-term liabilities.

g. No Dividend Pay-outs by Banks & Co-operative Banks

In order to ensure that the Banks conserve their capital to support adequate credit flows and to absorb losses in an environment of increased uncertainty. Accordingly the scheduled commercial banks and co-operative banks shall not make any further dividend pay-outs from their profits pertaining to the FY 2019-20, until further instructions. This restriction shall be reviewed on the basis of the financial position of banks for the quarter ending 30-9-2020.

h. NBFC Loans to Commercial Real Estate Projects

The RBI has also allowed for extension of date for commencement for commercial operations (DCCO), in respect of loans given by banks and NBFCs to commercial real estate projects, delayed for reasons beyond the control of promoters, by an additional one year, over and above, the one-year extension permitted in normal course. This extension will not be treated as restructuring.

3. IBBI amends liquidation process norms; excludes period of lockdown from computation of timelines under IBC

Circular No. IBBI/2020-21/GN/REG060, Dated 17.04.2020.

The Insolvency and Bankruptcy Board of India (IBBI) has notified the IBBI (Liquidation Process) (Second Amendment) Regulations, 2020 whereby new a proviso 47 A has been inserted which provides that the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak would not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any liquidation process.

4. MCA and SEBI seek essential service status for auditors of listed companies

News, Dated 20.04.2020

The Listed companies are required to disclose their audited annual financial



statements within 60 days of the end of financial year, i.e. by May 31. In this regard, the SEBI has extended the deadline for financial results of listed companies for F.Y. 2019-20 to June 30, 2020 due to the COVID-19 outbreak. However, the auditors of listed companies are not in a position to visit sites physical verifications and interactions with the management of the companies whose financial results are audited. This would take time and effort.

The audited financial results constitute crucial information with respect to financial performance of a listed company and help investors to take informed investment decisions however under current lockdown auditors' hand are tied as they can only audit those companies which are functioning.

Therefore, in order to deal with such matter, the market regulator, SEBI has written to the Ministry of Corporate Affairs to take up the matter of permitting auditors of listed companies to operate from April 20, 2020 with the Ministry of Home Affairs.

5. Decision on approval of cashless treatment must be communicated to hospital within 2 hours: IRDAI to insurers

Circular No. Ref: IRDAI/HLT/MISC/CIR/95/04/2020, Dated 18.04.2020

IRDAI has directed insurers to settle the cashless treatment of health insurance claim within 2 hours, this move is aimed to ensure expedite processing of claims amid corona outbreak. IRDAI said that "In light of prevailing conditions owing to COVID 19 as also taking into consideration the need for alleviating the pressure on the healthcare infrastructure, all the insurers shall decide health insurance claims expeditiously."

In order to ensure all health insurance claims are responded to quickly, IRDAI has directed insurers to settle the health claim as under:

Intimation of approval of cashless treatment to hospital

IRDAI requires that decision on authorization for cashless treatment shall be communicated to the network provider (hospital) within two hours from the time of receipt of authorization request and last necessary requirement from the hospital either to the insurer or to the Third Party Administrators (TPA) whichever is earlier.



Intimation of final discharge

Decision on final discharge shall be communicated to the network provider within two hours from the time of receipt of final bill and last necessary requirement from the hospital either to the insurer or to the TPA whichever is earlier.

IRDAI has also advised Insurers to issue appropriate guidelines to their respective TPAs.

6. RBI directs banks to extend benefit of interest subvention and repayment incentive for short term crop loans upto Rs. 3 lakh to farmers

Circular No. FIDD.CO.FSD.BC.No.24/05.02.001/2019-20, Dated 21.04.2020

In the wake of the nationwide lockdown due to outbreak of Covid -19 pandemic and the resultant restrictions imposed on movement of people, many farmers are not able to travel to bank branches for payment of their short term crop loan dues. In order to ensure that farmers do not have to pay penal interest and at the same time continue getting the benefits of interest subvention scheme, the Government has decided to continue the availability of 2% Interest Subvention (IS) and 3% Prompt Repayment Incentive (PRI) to farmers for the extended period of repayment up to 31.05.2020 or date of repayment, whichever is earlier, for short term crop loans up to Rs3 lakh per farmer which have become due between March 01, 2020 and May 31, 2020.

And accordingly the RBI has advised banks to extend the benefit of IS of 2% and PRI of 3% for short term crop loans upto 3 lakh to farmers whose accounts have become due or shall become due between March 1, 2020 and May 31, 2020.

7. SEBI further relaxes time lines for compliance by trading and clearing members

Circular/SEBI/IA - SEBI/HO/MIRSD/DOP/CIR/P/2020/68, dated 21.04. 2020

In view of the situation arising due to COVID-19 pandemic and extended lockdown period, based on representation received from Stock Exchanges, the SEBI has decided to extend the timelines for the compliances requirements by trading members / clearing members. The Compliances includes 'Submission towards weekly monitoring of client funds under the provisions of Enhanced Supervision', 'Daily margin trading reporting'. The SEBI has further clarified that any delay in submission of specified reports would not attract penalty till May 17, 2020. Further, the date for compliance requirement of issuance of 'Annual Global Statement' to clients and 'Update in Income Tax Permanent Account Number of



Key Management Personnel / Directors' has been extended by one month from the due date.

8. Regulatory measures introduced by SEBI during lock down will continue to remain in force till May 28, 2020

Press Release No. 22/2020, Dated 20.04.2020

In view of the uncertainty observed in the recent past owing to concerns relating to COVID-19 pandemic and the resultant fear of economy, slowdown, the SEBI vide Press Release dated March 20, 2020 had introduced various regulatory measures for a period of one month w.e.f. Mar 23, 2020. The measures were taken with the objective of ensuring orderly trading and settlement, effective risk management, management, price discovery a maintenance of market integrity.

The measures taken by SEBI on March 20, 2020 also overlapped with the lockdown measures implemented in the country for a period of 21 days w.e.f. March 25, 2020 (i.e. till April 14, 2020) by Ministry of Home Affairs (MHA) vide Order dated March 24, 2020. MHA, after assessing situation of COVID-19 pandemic in India, had recently extended the lockdown in the country upto May 03, 2020 vide Order dated April 14, 2020.

“As the stock markets (both domestic and global) are expected to be volatile in the near future owing to concerns relating to COVID-19 pandemic and the resultant fear of economic slowdown, keeping in view the objective of ensuring orderly trading and settlement, effective risk management price discovery and maintenance of market integrity, it has been decided that the measures implemented since March 23, 2020 will continue to in force till May 28, 2020.”, said SEBI

9. Companies whose financial year has ended on Dec 31, 2019 can hold annual general meeting by Sep 30, 2020: clarifies, MCA

General Circular No. 18/2020, Dated 21.04.2020

Several representation were received by the Ministry of Corporate Affairs (MCA) from stakeholders on account of difficulties faced by Companies in holding Annual General Meeting (AGMs) during Covid-19 pandemic, In this regard, the MCA has clarified that Companies whose financial year has ended on Dec 31, 2019 can hold annual general meeting within a period of nine months from the closure of the financial year, i.e., by Sep 30, 2020. MCA has also clarified that holding of AGM by Sep 30, 2020 as clarified in this General Circular would not be viewed as violation of the provision of the Companies Act and rule thereunder. The



Companies Act, 2013 allows a company to hold its AGM within a period of six months (nine months in case of first AGM) from closure of the financial year and not later than 15 months from the last date of AGM.

10. Now you can pay medical insurance premiums in installments amid Corona outbreak: IRDAI

Circular No. IRDAI/HLT/REG/CIR/096/04/2020, Dated 21-04-2020

In view of prevailing conditions owing to COVID-19 outbreak, considering the need for easing the payment of health insurance premiums, IRDAI has allowed the insurers to collect health insurance premiums in installments as specified in guidelines, as they may deem appropriate for any specific product(s).

In addition to that, IRDAI has also directed insurers to ensure that there shall be no change in basic premium table and charging structure under the approved individual product to which new premium payment mode (frequency) is being added. However, Factors applicable, if any, to allow the change of premium payment mode (frequencies) shall be fair and reasonable.

Furthermore, insurer have been advised that the premium mode (frequency) proposed to be added may be monthly, quarterly or half yearly and the resulting premium amounts under each mode (frequency) are consistent with premium amounts under other premium modes (frequencies) of the underlying product. It is pertinent to note that the facility of payment of premiums in instalments is offered in respect of any product / products the same shall be offered to all policyholders without any discrimination and policyholders shall be also notified of the applicable condition. However, the names of the products that are offered the facility of payment of premiums in instalments shall be published on the websites of insurers for the information of policyholders.

11. RBI reduces reverse repo rate by 25 basis points from 4.0% to 3.75%

News, Dated 17.04.2020

The RBI has decided to reduce the interest rate on fixed rate reverse repo under the Liquidity Adjustment Facility (LAF) by 25 basis points from 4.00 per cent to 3.75 per cent with immediate effect. However, the policy repo rate under the LAF remains unchanged at 4.40 per cent and the interest rate on the marginal standing facility (MSF) under the LAF and the Bank Rate remain unchanged at 4.65 per cent.



12.RBI excludes period from Mar 01 to May 31 from calculation of 30 days review period on resolution of Stressed Assets

Circular No. DOR.No.BP.BC.62/21.04.048/2020-21 April 17, 2020

In terms of paragraph 11 of the Prudential Framework, lenders are required to implement a resolution plan in respect of entities in default within 180 days from the end of Review Period of 30 days. In this regard, RBI has decided to exclude period from Mar 1, 2020 to May 31, 2020 from the calculation of the 30-day timeline for the Review Period. In respect of all such accounts, the residual Review Period shall resume from June 1, 2020.

13.RBI directs banks not to declare dividend from profits relating to F.Y. ended March 31, 2020

Circular No.DOR.BP.BC.No.64/21.02.067/2019-20 April 17, 2020

In an environment of heightened uncertainty caused by COVID-19, it is important that banks conserve capital to retain their capacity to support the economy and absorb losses. Accordingly, it has been decided by Reserve Bank that no bank shall declare dividend or make any further dividend payouts from the profits pertaining to the financial year ended March 31, 2020 until further instructions.

14.RBI allows banks to maintain lower liquidity ratio of 80% up to Sep 30, 2020

Circular No.DOR.BP.BC.No.65/21.04.098/2019-20, dated 17.04.2020

Banks are required to maintain LCR of 100 per cent with effect from January 1, 2019. In order to accommodate the burden on banks' cash flows on account of the Covid19 pandemic, banks are permitted to maintain 80% of LCR as from date of circular to September 30, 2020 and thereafter 90% from Oct 1, 2020 to Mar 31, 2020 and 100% from Apr 01, 2021 onwards.

15.RBI extends guidelines on deferment of date of commencement of commercial operations for NBFCs

Circular No. DoR.NBFC (PD).CC.No.110/03.10.001/2019-20 April 17, 2020

The Reserve Bank has issued guidelines to banks on deferment of date of commencement of commercial operations (DCCO) for projects in commercial real estate (CRE) sector vide circular number DOR.No.BP.BC.33/21.04.048/2019-20, dated February 07, 2020. In this connection, it has been decided to extend the above-mentioned guidelines issued to banks, mutatis mutandis, to NBFCs as well.



16. SEBI extends due date for regulatory filings and compliance requirements by trading members and clearing members

Circular No. SEBI/HO/MIRSD/DOP/CIR/P/2020/61 April 16, 2020

In view of the situation arising due to COVID-19 pandemic and extended lock down period, based on representations received from Stock Exchanges, SEBI has been decided to extend the due date for the regulatory filings and compliance requirements by their trading members / clearing members.

17. SEBI relaxes timelines for processing of Demat request from by Registrars to an Issue & Share Transfer Agents

Circular No. SEBI/HO/MIRSD/DOP/CIR/P/2020/62 April 16, 2020

In view of the situation arising due to COVID-19 pandemic and extended lockdown period, the SEBI has provided relaxation in compliance requirements with the time period for the activities carried out by the depository participants, stock brokers, share transfer agent / issuer (RTA). SEBI has excluded the period from March 23, 2020 till May 17, 2020 for purpose of processing of KYC form and Demat request form by KYC Registration Agencies (KRA) and RTAs

18. Govt. amends PMLA norms; allows principal officer of reporting entity to furnish details of transactions as per rule 3 by Jun 30, 2020

Notification No. [F. No. P-12011/18/2019-ES Cell-DOR], Dated 13.04.2020

The Government has notified the Prevention of Money-laundering (Maintenance of Records) Second Amendment Rules, 2020 whereby amendment has been made to rule 8 providing that the Reporting Officer shall furnish the information specified therein in rule 3 by Jun 30, 2020. As per Rule 8, Principal Officer of the reporting entity is required to furnish the information in respect of transactions referred to in clauses (A), (B), (BA), (C) and (E) of sub-rule (1) of rule 3 every month to the Director by the 15th day of succeeding month.

19. Govt. extends premium payment date for renewal of motor vehicle third party insurance upto May 15, 2020

Notification no. [F. No. 14017/18/2020-Ins-II], Dated 15.04.2020

Having regard to the prevailing situation in the country caused due to Corona Virus disease (COVID-19) and consequent extension of lockdown period by further 19 days starting on and from April 15, 2020 up to the May 05, 2020, the Central Government vide notification dated Apr 15, 2020 has amended the order issued vide S.O.1237 (E) dated the April 01, 2020. The Notification provides that the policy holders whose motor vehicle third party insurance policies fall due for renewal during the period on and from the March 25, 2020 up to the May 03, 2020 and who



are unable to make payment of their renewal premium on time in view of the prevailing situation in the country as a result of Corona Virus disease (COVID-19), are allowed to make such payment for renewal of policies to their insurers on or before the May 15, 2020 to ensure continuity of the statutory motor vehicle third party insurance cover from the date on which the policy falls due for renewal, so that any valid claim triggered during the grace period can be paid.



Goods and Service Tax (GST)

Latest Updates, News and Judgments

1. Section 84A of the Gujarat VAT Act extending period of limitation of cases in VAT is constitutionally invalid: HC *Reliance Industries Ltd. v. State of Gujarat - [2020] 116 taxmann.com 210 (Gujarat)*

The writ application was filed challenging the constitutional validity of the Section 84A of the Gujarat Value Added Tax Act, 2003 (the 'GVAT Act').

The VAT Amendment Act, 2018 added Section 84A in the VAT Act retrospectively w.e.f 1-4-2006. It provided for the exclusion of the period spent between date of decision of the appellate tribunal and that of the High Court as well as the Supreme Court in computing the period of limitation in Section 75 of the VAT Act. In the present case, the period commencing from the date of the decision of this Court dated 18-01-2013 rendered against the revenue up to the date of the decision of the Supreme Court i.e., 22-09-2017 being in favour of the revenue to be excluded as per the above retrospective amendment to enable the department to issue a notice for revising the assessment made for the year 2008-09.

The original period of limitation as provided under Section 75 of the VAT Act for issuing notice is of 3 years from the date of the assessment order i.e. 30-03-2013, in the given case which had lapsed on 30-03-2016. However, by virtue of the newly enacted Section 84A, the period spent from the date of the decision of the High Court is 18-01-2013 up to the date of the decision of the Supreme Court i.e. 22-09-2017 is to be excluded in computing the aforesaid period of three years, referred to under Section 75 of the Act.

The Honourable High Court observed that vide the Gujarat Value Added Tax (Amendment) Act, 2018, Section 84A had been inserted in the GVAT Act with retrospective effect. However, the amending Act did not provide for any validation of various acts of the revenue authorities namely the assessment, re-assessment, collection etc. Accordingly, the said Act could not be treated as a 'validating Act'. Section 84A provide for exclusion of certain period spent by the revenue authorities in the appellate proceedings for the purpose of calculating time limit for assessment, appeal and revision. All these provisions provide for outer time limit of the order to be made. In case where the orders were already made by the revenue authorities and the matter was closed, the retrospective amendment without validation might not validate such orders.



Thus, if unlimited time period became available to the Revenue for assessment/reassessment/revision in any case based on a decision rendered in the case of any other dealer the same would lead to irreparable situation and would render Section 84A manifestly arbitrary and unreasonable.

The Honourable High Court held that the Section 84A of the Gujarat VAT Act was invalid on the ground that the same was beyond the legislative competence of the State Legislature.

2. 'Phytotherapy' treatment not covered under health care services, taxable under GST

OPTM Health Care (P.) Ltd., In re - [2020] 116 taxmann.com 207 (AAR - WEST BENGAL)

The applicant has been providing a form of treatment called 'Phytotherapy' to cure osteoarthritis and disorders of similar nature. The applicant has sought advance ruling on whether 'Phytotherapy' treatment is exempt from GST?

The Authority for Advance Ruling observed that the exemption notification for services issued under GST, exempts health care services by a clinical establishment, an authorised medical practitioner or paramedics from the payment of GST. The clinical establishment has been defined as a hospital, nursing home, clinic, sanatorium or any other institution by whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India.

The applicant submitted that the word "Phyto" of the 'Phytotherapy' treatment means derived from plants. However, the applicant does not clarify that its plant-based preparations are manufactured exclusively in accordance with the formulae described in any authoritative book of Ayurveda specified in the Drugs and Cosmetics Act, 1940. It does not claim that the persons administering the plant-based preparations are 'authorised medical practitioners' in Ayurveda defined in the exemption notification issued under GST. Hence, the applicant is not a clinical establishment offering treatment in the recognised ayurvedic system of medicine.

The Authority for Advance Ruling held that the 'Phytotherapy' treatment is not covered under the health care services supplied by clinical establishment and therefore, taxable under GST.



3. No extension in time limit to file Tran-1, if no evidence of technical glitches found on GST portal during filing: HC

Nelco Ltd. v. Union of India - [2020] 116 taxmann.com 255 (Bombay)

The assessee attempted to file Form Tran-1 on 27-12-2017. The form could not be filed due to problems of GST portal. The assessee sent an e-mail to the department to resolve technical difficulties in filing Form Tran-1 but no response came. The assessee filed writ petition to sought relief in this regard.

The Honourable High Court observed that the time limit stipulated under Rule 117 of the CGST Rules is not ultra vires of the CGST Act. The time limit stipulated in Rule 117 is in accordance with the transitional nature of the enactment, and, hence, it was neither arbitrary nor unreasonable.

Further, the IT Grievance Redressal Cell was set up by the GST Council to examine the existence of technical difficulties on the GST portal. The existence of technical difficulties as seen from the system logs at the GST portal is a valid proof. Those registered persons who could not submit the declaration by the due date because of technical difficulties on the GST portal which could be evidenced from the system logs were given extension in filing of Form Tran-1 on the recommendation of the Council. In the given case, the assessee submitted that the browsing history showed that it attempted and encountered technical difficulties while filing Form Tran-1. However, where no such evidence of GST system log was available, thus, no recommendation was made.

In view of the above, the Honourable High Court dismissed the petition and refused to give extension in the time limit to file Form Tran-1.

4. No detention of goods in transit without e-way bill if tax already paid at the time of import: HC

Synergy Fertilchem (P.) Ltd. v. State of Gujarat - [2020] 116 taxmann.com 221 (Gujarat)

The Competent Authority detained the goods in transit as well as vehicle of the assessee on the ground that the goods were not accompanied by e-way bill. The authority further issued a show cause notice as to why goods and vehicle should not be confiscated for non-payment of an amount of Rs. 60.72 lakhs. The assessee filed a writ petition before the High Court of Gujarat seeking relief in this regard.

The assessee submitted that the show cause notice was issued imposing penalty, redemption fine and confiscation without initiating any proceedings for detention,



seizure and release of goods and vehicle under the GST Act, which was not permissible in law. It was further submitted that the assessee had already paid IGST on such goods at the time of import. Those were perishable goods with a limited shelf life.

The Honourable High Court observed that under GST Act, the proper officer detaining or seizing the goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass a confiscation order for payment of tax and penalty. However, no tax, interest or penalty shall be determined without giving the person an opportunity of being heard.

The Honourable High Court directed the assessee to make its case showing that the show cause notice deserve to be discharged.

5. Subway franchisee guilty of profiteering for increasing price of its products despite rate reduction w.e.f 15.11.2017

State Tax Officer v. Bonne Sante - [2020] 116 taxmann.com 257 (NAA)

The application was filed against the assessee alleging profiteering in respect of restaurant service. It was alleged that despite rate reduction in the GST rate from 18% to 5% w.e.f. 15-11-2017, the assessee increased the base price of its products and did not pass on the commensurate benefit of rate reduction.

The National Anti-Profiteering Authority observed that the as per the provisions of the CGST Act, any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices. As per the DGAP's report, ITC available to the assessee during the period July, 2017 to October, 2017 was 7.39% of the net taxable turnover of the restaurant services supplied during the same period. When the GST rate on restaurant service was reduced from 18% to 5% w.e.f. 15-11-2017, the ITC was not available to the assessee. The assessee had increased the base prices of various products by more than 7.39%, i.e. by more than what was required to offset the impact of denial of ITC.

Hence, the National Anti-Profiteering Authority held that the seller was guilty of profiteering and directed to reduce the prices of its products commensurately.

6. AAAR could not condone the delay for filing an appeal beyond 30 days, hence appeal dismissed being time barred

Deputy Conservator of Forests, In re - [2020] 116 taxmann.com 206 (AAAR-KARNATAKA)



The applicant is Karnataka Government Forest Department and under its sovereign functions, it grows plants of trees species. The task of harvesting of trees is given to government corporations by the applicant. The government corporations do all the operations which are termed as logging and the applicant pay them charges for the same. The applicant has sought an advance ruling on whether the entire service of logging and its components are taxable under GST?

The Authority for Advance Ruling (AAR) ruled that the logging activities are taxable under GST whether the trees were planted by the applicant or grew out of natural regeneration. The applicant aggrieved from the ruling of AAR, filed an appeal before the Appellate Authority for Advance Ruling (AAAR).

The AAAR observed that there is delay in filing the appeal. As per CGST Act, an appeal should be filed within 30 days from the date of receipt of communication of advance ruling order that is sought to be challenged. However, the Appellate Authority is empowered to condone the delay only by 30 days if it satisfied that there is sufficient cause for not filing the appeal within 30 days.

In the given case, the AAAR noticed that the advance ruling order was communicated to the applicant on 4-10-2019. This date is to be excluded from the computation of limitation period of 30 days. The period of limitation starts from 5-10-2019 to 3-11-2019. The grace period of 30 days during which delay can be condoned starts from 4-11-2019 to 3-12-2019. However, the applicant files the appeal on 4-12-2019 which is one day after the expiry of grace period and beyond the condonable powers of the appellate authority. Therefore, the AAAR is not empowered to condone the delay even by one day after the expiry of grace period.

The AAAR dismissed the appeal filed by the applicant on ground of time limitation as the authority cannot condone the delay in filing the appeal beyond grace period of 30 days.

**7. HC sets aside notice demanding interest & subsequent order attaching bank accounts as no SCN was issued to assessee
Union of India v. LC Infra Projects (P.) Ltd. - [2020] 116 taxmann.com 205 (Karnataka)**

The notice demanding interest was issued upon assessee. Subsequent to the



issue of notice, bank accounts of the assessee were attached by the revenue authorities on account of non-payment of the said interest. On writ filed by the assessee, the Single Judge quashed both the orders. The revenue filed writ appeal in this regard.

The assessee submitted that the no notice as contemplated under Section 73 of the CGST Act was issued to the assessee before quantifying interest amount and attaching bank accounts of the assessee. Therefore, the authority had breached the principles of natural justice.

The Honourable High Court observed that whether there was a failure on part of the assessee to pay the tax within the period prescribed, the assessee was entitled to be heard. As per Section 73 of the CGST Act, when any tax has not been paid or short paid, a Show Cause Notice is to be issued to the assessee so as to show cause as to why he should not pay the amount specified in the notice along with interest.

Therefore, the Single Judge had rightly held that issuance of Show Cause Notice is an essential condition in order to proceed with the recovery of interest. The Honourable High Court upheld the view of the Single judge that a show cause notice was required to be issued to the assessee before initiating recovery of interest payable. Hence, demand of interest and order of attachment were set aside.

8. AAR rejected application as issue of ITC eligibility on renting of immovable property pending in other case before SC Vikram Traders, In re - [2020] 116 taxmann.com 203 (AAR - KARNATAKA)

The applicant is engaged in the business of renting of immovable property, manufacturing and supply of fabric. He procured inward supplies attributable to renting of immovable property. The applicant has sought advance ruling on whether he is eligible to claim input tax credit on inputs attributable to renting of immovable property?

The Authority for Advance Ruling observed that the applicant placed reliance on the decision of High Court of Orissa in the case of Safari Retreats Pvt. Ltd. wherein it was held that input tax credit on renting of immovable property was not blocked and assessee was entitled to the credit. The principle laid down by the High Court in the case mentioned above is squarely applicable in the applicant's case. However, the department has filed an appeal before the



Supreme Court against the said order of High Court of Orissa. The issue under consideration is pending before the Honourable Supreme Court and thus, is sub judice.

The Authority for Advance Ruling rejected the advance ruling application of the assessee as per the provisions of the CGST Act, wherein the issue of ITC eligibility on inputs attributable to renting of immovable property is pending in another case before the Apex Court.

9. Anticipatory bail allowed to assessee arrested for offence committed under GST on execution of bond with surety: HC
Manmohan Lalman Agarwal v. State of Gujarat - [2020] 116 taxmann.com 126 (Gujarat)

The two assesseees were arrested for committing an offence punishable under the GST Act. The arrested assesseees filed an application before the High Court of Gujarat for grant of anticipatory bail in connection with FIR registered for offence punishable under the GST Act.

The GST authorities opposed the bail application and submitted that assesseees were engaged in availment of illegal input tax credit on the basis of fake and fabricated documents, thereby causing huge loss to the revenue department.

The Honourable High Court observed that one assessee aged 69 years, was having serious medical ailments while the other one was a female, aged 65 years. Moreover, the GST authorities were unable to bring on record any special circumstances against assesseees.

The Honourable High Court directed the GST authorities to release the assesseees on bail on their furnishing of bond of Rs. 10,000 each with one surety of same amount.

The assesseees were required to cooperate with investigation and not make any inducement, threat or promise to any person acquainted with the case.



Income Tax

Latest Updates, News and Judgments

1. **Sum received from tenant for not letting out vacant units of property is taxable as income from other source**

Redwood IT Services (P.) Ltd. v. ITO - [2020] 116 taxmann.com 223 (Mumbai - Trib.)

Assessee purchased property and divided it into 4 units, out of which 2 units were let out and 2 units were vacant. It had entered into an option agreement for a period of 9 months that the property shall not be let out to a 3rd party without the consent of the tenant. Compensation received from such agreement was offered to tax under the head "Income from other sources" and expenses were claimed against such income to show net loss.

During the course of assessment proceedings, Assessing Officer (AO) called upon the assessee to produce the details of the income from other sources and expenses along with the copy of agreements or documents. The assessee submitted that compensation was received in pursuance of an option agreement. It was neither for let out of property nor in the nature of rent. AO was not convinced with the assessee's arguments and made additions under the head "income from house property".

On appeal, ITAT held that if any income is assessable under the house property, it should be out of property let out or deemed to be let out. Assessee had neither let out the property nor was it vacant. Therefore, the receipt by way of an option agreement couldn't be assessed under the head income from house property. Once said receipt was not assessable under the head income from house property, then obviously it had to be considered under any other head of income. Hence, the AO was directed to delete additions made towards income from house property as against, the income offered by the assessee under the head income from other sources.

2. **E-mail seeking clarification from taxpayer to get tax refund cannot be misconstrued as harassment: CBDT**

Press Release, dated 21-04-2020

The Central Board of Direct Taxes (CBDT) responding to some observations being circulated on social media alleging that the Income Tax Department is pursuing recovery proceedings and using arm-twisting methods by adjusting outstanding demands of start-ups.

The CBDT has clarified that its email seeking clarification from all those who are entitled to get tax refund but also have outstanding tax to pay cannot be



misconstrued as harassment. These computer generated emails have been sent to almost 1.72 lakh assesseees which includes all classes of taxpayers. E-mails are being send so that necessary action can be taken by the I-T Department to release the refunds immediately.

The board has further requested the start-ups to respond to its emails at the earliest so that further necessary action can be taken by the I-T Department to release the refunds immediately wherever due, in accordance with the extant procedure

In the context of the COVID-19 situation and to provide immediate relief to the taxpayers, the Ministry of Finance vide Press release, dated 08-04-2020, has decided to issue all the pending income-tax refunds up to Rs. 5 lakh, immediately.



FREQUENTLY ASKED QUESTIONS ON EPF ADVANCE TO FIGHT COVID-19 PANDEMIC

Q1: Who is eligible for the advance from EPF to fight COVID-19 Pandemic?

Ans. Any member of EPF Scheme, 1952 with UAN (Universal account number) employed in any establishment or factory covered under EPF & MP Act, 1952.

Q2: Under which provision of the EPF Scheme, 1952, a member is entitled for benefit?

Ans: That a new sub-para (3) has been inserted in Paragraph 68L of the EPF Scheme, 1952 through GSR No.225(E) published in the Gazette of India (Extraordinary), Part II- Section 3- sub section (1) on 28.03.2020 to provide for benefit.

Q3: What is the new beneficial provision?

Ans: It is to provide for non-refundable advance from their EPF account to EPF members, employed in factory or establishment located in an area, which is declared to be affected by outbreak of epidemic or pandemic by the Appropriate Govt.

Q4: How can I know whether establishment/factory in which I am employed is in an area declared to be affected by COVID-19 pandemic?

Ans: Since COVID-19 has been declared a Pandemic by the Appropriate Government for the entire country and therefore the employees working in establishments and factories across entire India, who are members of the EPF Scheme, 1952, are eligible.

Q5: Is EPF member required to produce any certificate or document for availing this advance?

Ans: No certificate or documents are to be submitted by member or his/her employer for availing the benefit.

Q6: How much money can I get from my EPF account under this new provision to fight COVID-19 and do I have to refund it?

Ans: You can get non-refundable withdrawal to the extent of the basic wages and



dearness allowances for three months or up to 75% of the amount standing to your credit in the EPF account, whichever is less. The amount standing to credit in EPF includes employee's share, employer's share and interest thereupon.

Since withdrawal is non-refundable, there is no requirement to refund the amount.

Q7: Please illustrate the calculation of benefits

Ans: If the balance in member's EPF account as on date is Rs.50,000/- and monthly basic wage and dearness allowance is Rs.15,000/- 75% of balance of Rs.50000/- is Rs.37,500/- & amount of three months wage is Rs.45000/-. So member is eligible to get Rs.37,500/- the least of two amounts.

Q8: How can I claim this amount? Do I need to submit claim form to EPFO Office?

Ans: Like claim for all other types of advances, the claim for this advance also can be filed Online if your UAN is validated with Aadhaar and KYC of Bank account and Mobile number is seeded in UAN.

Q9: Where and how can I file Online Claim?

Ans: On the home page of website- www.epfindia.gov.in, under the TAB "COVID-19" on top right hand corner, instructions for filing online advance claim is hosted.

The process is also noted below:

- a. Login to Member Interface of Unified Portal (<https://unifiedportalmem.epfindia.gov.in/memberinterface>)
- b. Go to Online Services>>Claim (Form-31,19,10C & 10D)
- c. Enter last 4 digits of your Bank Account and verify
- d. Click on "Proceed for Online Claim"
- e. Select PF Advance (Form 31) from the drop down
- f. Select purpose as "Outbreak of pandemic (COVID-19)" from the drop down
- g. Enter amount required and Upload scanned copy of cheque and enter your address
- h. Click on "Get Aadhaar OTP"
- i. Enter the OTP received on Aadhaar linked mobile.
- j. Claim is submitted



Q10: Can I file claim through my mobile phone?

Ans: Yes, from your mobile phone you can either

- i) login to (<https://unifiedportal-mem.epfindia.gov.in/memberinterface>) and follow steps a. to j as in Ans to Q9 to file claim OR
- ii) Through UMANG (Unified Mobile Application for New-age Governance) Mobile APP Home> EPFO> Employee Centric Services> Raise Claim> Login with your UAN and OTP received on your mobile number registered with UAN to file claim

Q11: Can an employee working in an exempted establishment get the advance to fight COVID-19 pandemic from PF Trust?

Ans: The “Terms and conditions of exemption” in Para 27AA of EPF Scheme, 1952, provides that any amendment to EPF Scheme, 1952, which is more beneficial to the employees becomes applicable to exempted establishments pending formal amendment of Trust Rules.

So, employee of an exempted establishment can withdraw from his PF account maintained with the PF Trust of the establishment by making application to the PF Trust

Q12: I availed advance recently for illness. Can I avail advance to fight COVID-19 pandemic?

Ans: Yes. This advance can be availed irrespective of advances availed earlier.

Q.13: What is income tax rate for advance to fight COVID-19 pandemic?

Ans: Income Tax is not applicable on any advance availed under EPF Scheme.

Q.14: I have already applied advance for a different purpose and requested a lower amount. I do not want to avail this advance now and would like to prefer claim for advance to fight COVID-19 pandemic. However, it is not permitted by the portal. What should I do?

Ans: To enable submission of fresh claim for availing this advance, the earlier claim under submission needs rejection. Please send request on email of your jurisdictional Regional Office for rejection of earlier form 31 submitted.



Q.15: How long will it take for credit of amount in my bank account after submission of claim for advance to fight COVID-19 pandemic?

Ans: Claims for advance to fight COVID-19 pandemic are being processed on priority considering exigency of the situation.

Q16: KYC is not complete for my EPF account and hence I am unable to file this claim.

Ans: The claim for this advance can be filed Online if your UAN is validated with Aadhaar and KYC of Bank account and Mobile number is seeded in UAN. You are requested to complete your KYC by submitting same on Member Portal. If your basic details that are name, date of birth and gender against UAN are same as that in Aadhaar, you can link your Aadhaar through eKYC Portal. In case of mis-match in KYC details and details in EPF account, please submit online request for demographic detail correction through your employer. The bank account detail has to be digitally approved by the employer. For submitting your claim online our aadhar linked mobile will get OTP. So your aadhar should be linked with a mobile

Q17: Is it necessary to apply for 75% of PF balance under this provision?

Ans: Withdrawal to the extent of the basic wages and dearness allowances for three months or up to 75% of the amount standing to your credit in the EPF account, whichever is less, is **maximum permissible limit**. You can apply for lesser amount also.

Q18: I have applied for availing advance under ‘Natural Calamity’ purpose. Will this be treated as advance to fight COV ID-19 pandemic?

Ans: No. You have to apply specifically for advance to fight COVID-19 pandemic.

Q19: Will EPFO process advance to fight COVID-19 pandemic despite lockdown?

Ans: Yes. Advance to fight COVID-19 pandemic are being settled on priority to mitigate hardship faced by members.

Q.20: I have not left my job. Can I withdraw PF to fight COVID-19?

Ans: Yes. You can avail this advance while still in service.



Relaxations / Extensions of various Compliance Deadlines etc. provided by Ministry of Commerce & Industry to address Corona Pandemic Related Hardships of Exporters

**Press Information Bureau Government of India
Ministry of Commerce & Industry**

11-April-2020

Department of Commerce has Provided a number of Relaxations / Extensions of various Compliance Deadlines etc. to address Corona Pandemic Related Hardships of Exporters

In order to give relief to businesses and affected individuals amidst the stress caused by the novel coronavirus pandemic, Department of Commerce, Ministry of Commerce and Industry has introduced several relaxations and extensions in deadlines etc. with regard to compliances mandated under its schemes and activities. The key relaxations pertaining to the Department of Commerce are as follows:

A. FACILITATION UNDER FOREIGN TRADE POLICY (FTP) 2015-20 BY DGFT

1. Extension of FTP beyond 31st March 2020: The Foreign Trade Policy (FTP) 2015-2020 and Handbook of Procedures (HBP) which was valid till 31st March 2020, have been extended by one year till 31st March 2021

2. Advance Authorizations and EPCG Authorizations: Extension of Export Obligation Period etc.

(i) In respect of those Advance Authorizations and EPCG Authorizations wherein the extended Export Obligation Period has either expired or is expiring between 1st February, 2020 to 31st July, 2020, the Export Obligation Period has been extended for further six months from the date of expiry.

(ii) In respect of those Advance Authorizations and EPCG Authorizations wherein the import validity period has either expired or is expiring between 1st February, 2020 to 31st July, 2020, the import validity period has been extended for further six months from the date of expiry.

(iii) In respect of those EPCG Authorizations wherein Block period to fulfill



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the Block-wise export obligation has either expired or is expiring between 1st February, 2020 to 31st July, 2020, the Block period has been extended for further six months from the date of expiry.

(iv) In respect of those EPCG Authorizations wherein the time period to produce the Installation Certificate before the RA concerned has either expired or is expiring between 1st February, 2020 to 31st July, 2020, the time period has been extended for further six months from the date of expiry.

3. Extension of validity of Registration cum Membership Certificate (RCMC) beyond 31st March, 2020: It has been decided that Regional Authorities (RAs) of DGFT will not insist on valid RCMC (in cases where the same has expired on or before 31 March, 2020) from the applicants for any incentive/authorizations till 30 September, 2020.

4. Service Exports from India Scheme (SEIS): The last date for filing annual claims under SEIS is 12 months from the end of relevant financial year of the claim period, which is expiring for 2018-19 claims on 31st March, 2020, has been extended to 31st December, 2020.

5. Merchandise Exports from India Scheme (MEIS): The last date for filing MEIS claims is 1 year from the Let Export Order (LEO) date of each Shipping Bill, and another 2 years beyond that with imposition of a late cut. The last date of filing MEIS claims without late cut for all Shipping Bills for which the initial one-year period expired / will be expiring on or after 1st Feb 2020 and on or before 31st May 2020, has been extended by 3 months beyond the expiry date of the initial one-year period.

6. Rebate of State and Central Taxes and Levies (RoSCTL): The last date for filing RoSCTL claims for export shipments between 7 March to 31 December, 2019 of 30th June, 2020, has been extended to 31st December 2020.

7. Status Holder: The validity period of all Status Certificates issued under FTP 2015-20 to an IEC holder has been extended up to 31st March, 2021.

8. Remissions under provisions of Hand Book of Procedure (HBP)

- i. Under para 4.12 (vi) of the Handbook of Procedure (HBP), validity date of norms ratified is limited to 31.3.2020 or three years whichever is later. This has been relaxed to be co-terminus with extended date of foreign trade policy / 3 years whichever is later.



- ii. Under para 4.41 (a) of HBP, Validity of Advance Authorizations for imports is capped at 12 months. Now the validity period of the Authorization for imports stands automatically extended by six months for Authorizations where import validity is expiring after 01 Feb 2020. The option to avail further validity extensions under para 4.41(c) shall be available.
- iii. Under para 4.42 (a) & (c) of HBP, Export Obligation (EO) period allowed under Advance Authorization Scheme is 18 and 24 months respectively. The EO period under this para now stands automatically extended by 6 months for Authorizations expiring after 01 Feb 2020. Option for further extensions as per HBP 4.42 (e) and (f) shall remain available after this period is over.
- iv. Under para 4.42 (d) of HBP, items under 4J get EO extension equal to half of the initially allowed period of EO. Now the EO period for items falling under appendix 4J stands automatically extended for a further period of six months for Authorizations expiring after 01 February 2020.
- v. Under para 4.80 (C) (D) (E) of HBP, the period allowed for exhibition exports are restricted to 60/90/120/45/365 days (depending on conditions mentioned) for replenishment of inputs of precious metals used. All durations mentioned under the given paras of HBP now stand extended by six months in addition to allowed durations for cases expiring after 01 February 2020.
- vi. Under para 4.82 (c) and (d), 4.83(b), 4.84(c) of HBP, replenishment scheme / outright purchase / loan basis period allowed for exports realisation is capped at 90, 180 days or credit terms, 120 days and 150 days etc. All durations mentioned under the given paras of HBP now stand extended by six months in addition to allowed durations for cases expiring after 01 February 2020.
- vii. Under para 4.85(b) and (c) of HBP, EO period under Advance Authorisation for Gems & Jewelry allowed at 120 and 90 days respectively. All EO periods now stand extended by six months for cases falling under these paras which expire after 01 February 2020.

In addition, following changes are also implemented based on feedback, representation and inputs from other departments in light of COVID-19:

- a. Extension in replenishment scheme for G&J under Para 4.59(e) also extended by 6 months.
 - b. Extension of 6 months under Para 4.75(c) and para 4.77(c) for Diamond exports and exports against supply by foreign buyer for G&J Sector.
9. As approved by Department of Revenue, Exemption of IGST and Compensation Cess under Advance Authorisation, EPCG Scheme and EOUs till 31.03.2021 has been notified. Chapter 6 of Hand Book of Procedures (HBP)-EOU/EHTP/STP/BTP



- i. Under para 6.01(b)(ii) of HBP, any LOP/LOI issued under the FTP has an initial validity period of 2 years. Such validity may be extended by the competent authority. Now All such LOPs/LOIs whose original or extended validity expires on or after 1st March 2020, would be deemed to be valid up to 31st December, 2020.
- ii. Under Para 6.06 (c): Special provisions have been laid down allowing a shorter period of export obligations in case of some sensitive products. In such cases where ever the export obligation period expires during 1st March, 2020 to 30th June, 2020, the same has been extended up to 30th of September, 2020

10. Chapter 7 of Hand Book of Procedures (HBP)-Deemed Exports: Under para 7.05(a) of HBP, an application for refund of TED / Drawback may be filed within 12 months from the date of realization / supply. Now in all such cases where the above dates fall on or after 1st March, 2020, the date of filing of applications for refund of TED/Drawback will now be deemed to be extended up to 30th September, 2020.

11. Chapter 7A of Hand Book of Procedures (HBP)- Transport and Marketing Assistance (TMA) Scheme: As per para 7A.01(d) of HBP, an application for claim of TMA may be filed within one year from the date of quarter ending. Now application for refund of such claims for the quarter ending 31st March, 2019 and 30th June, 2019 may be filed up to 30th September, 2020.

12. Chapter 9 of Hand Book of Procedures (HBP)- Miscellaneous Matters : As per Para 9.02 of HBP, provisions of late cut have been laid down wherever any application is received after expiry of last date for submission of such application. Now last date of submission of application for the purpose of late cut would be taken to be extended as per the extension given above for the regular application.

B. FACILITATION FOR SPECIAL ECONOMIC ZONE (SEZ) UNITS

- i. In respect of SEZ Developers/Co- developers/ Units relaxations have been allowed on following compliances:
 - a. Requirement to file Quarterly Progress Report (QPR) attested by Independent Chartered Engineers by Developers/ Co-developers
 - b. SOFTEX form to be filed by IT/ITES units
 - c. Filing of Annual Performance Reports (APR) by SEZ units
- ii. Development Commissioners have been directed to facilitate all extensions of Letter of Approvals (LoAs) and other compliances through electronic mode in a time-bound manner. In the cases where it is not possible to grant extension through electronic mode or in cases where a physical meeting is



- required, Development Commissioners shall ensure that the Developer / Co-developer / Units do not face any hardship due to such expiry of validity during this period of disruption, and ad-hoc interim extension / deferment of the expiry date may be granted without prejudice till 30.06.2020 or further instructions of the Department on the matter, whichever is earlier. Such extensions will cover following type of cases:
- a. Developers/co-developers who are in the process of developing and operationalizing the SEZS
 - b. Units which are likely to complete their 5 year block for NFE assessment
 - c. Units which are yet to commence operations
- iii. Similarly, in case of expiry of LOPs of Export Oriented Units (EOU)s also, DCs have been directed to ensure that there is no hardship to EOUs during the lockdown period and if possible, all extension of LOPs may be facilitated through electronic mode in time bound manner. Where it is not possible to grant extension through electronic mode or such cases where physical meeting is required, in such cases expiry of validity of EOUs may be deferred suitably till 30th June, 2020. Such extensions will cover following type of cases:
- a. Letter of Permission (LoP) of existing EOUs whose five period for calculation of NFE is completed during the lockdown period.
 - b. LoP of EOUs whose validity is expiring during the lockdown period.
- iv. Along with IT/ITES Units, Non IT/ITES Units in SEZs have also been allowed to take desktop/laptop outside SEZs for work from home. .
- v. Power has been delegated to Development Commissioners for broad banding in case of manufacturing of essential items like masks, sanitizer, gowns and other protective preventive products/instruments subject to post-facto ratification by UAC.
- vi. All DCs have been sensitized to adopt electronic working culture and to extend support to the units involved in manufacturing of drugs, essential items etc and to follow COVID guidelines.
- vii. Department, in coordination with Development Commissioners is monitoring the situation on a daily basis. As on date, 403 units, engaged in manufacture of essential supplies like drugs, pharmaceuticals, medical supplies, etc. are functioning. In addition to this, 2055 units engaged in IT/ITES and other sectors have been allowed to work-from-home.

C. FACILITATION BY ECGC:

- i. Time for filing returns like declarations, extension applications, report of default etc., under the insurance covers that are due in March and April, extended up to May 31, 2020.
- ii. Time for filing claim/ replies due during this period extended up to 30th June, 2020.



- iii. Waiver of credit limit application fee till 30th June, 2020.
- iv. Reduction in policy proposal processing fee by 50% for policies due for renewal / issue from 1st March till 30th June, 2020.
- v. Discretion to exporters to extend due date for payment by buyers for shipments accepted earlier.
- vi. Discretion to decide about shipments (i.e. resale / reimport / or abandon) that reached destination but not cleared by overseas buyers due to lockdown in the destination countries.
- vii. Claim eligibility period under insurance cover reduced from the present 4 months period to 1 month.

D.FACILITATION BY AGRI EXPORTERS BY AGRICULTURAL & PROCESSED PRODUCTS EXPORT DEVELOPMENT AUTHORITY (APEDA):

- i. For facilitating exporters, APEDA extended the validity of RCMC, Recognition/Registration of pack houses, groundnut processing unit, Meat plants, wherever expiring up to 30th April, 2020.
- ii. Advisory has been issued for providing additional one month validity of certificate as a one-time measure for exporters of Organic products.
- iii. An advisory was issued on 28/03/2020 to all the laboratories authorized in HortiNet / GrapeNet as well as those for APEDA scheduled products, which carry out sampling and analysis of fresh fruits and vegetables, to bring any impediment related to movement of samplers and laboratory staff to the notice of APEDA and the local Authorities for quick resolution.
- iv. APEDA Certification Bodies have been advised to extend the validity of organic certificates. This will enable the farmer to continue with certification without losing organic status.
- v. Provision has also been made for interim extension of certificates of food processors and exporters whose physical inspection could not be conducted.
- vi. With the intervention of APEDA, few packing units in Navi Mumbai were able to get the permission to resume operations for production of essential packaging material for supplies.

E. FACILITATION BY THE TOBACCO BOARD:

The last date for submission of monthly returns by various traders for the month of February is 15th March. The last date for submission of returns for the month of March is 15th April. Tobacco Board has extended these dates up to 30th April 2020. Tobacco board in consultation with State Govt. and other stakeholders has planned to start auctioning of Tobacco w.e.f.15th April, 2020 in order to prevent loss of the Tobacco Crop.



F. FACILITATION BY THE TEA BOARD:

i. Tea board has extended various timelines as follows :

Sl. No	Return Name	Provision under	Frequency	Stakeholder	Due data	Purpose	Extension Granted
1	Production return (Form-E)	TMCO	Monthly	Tea Manufacturers	07.04.2020	Captures monthly production, green leaf price paid to growers, Tea Waste generated and disposal data- to be used for IIP too	Revised to 30.04.2020
2	Buyer Return (Form-F)	TMCO	Quarterly	Tea Buyers	31.03.2020	Captures Tea purchase and sale data	Revised to 30.04.2020
3	Instant Tea Return	TMCO	Monthly	Instant Tea Manufacturers	07.04.2020	Instant Tea manufacture d data	Revised to 30.04.2020
4	Ware House Return (Form M)	TWCO	Monthly	Tea ware houses	07.04.2020	Tea storage and disposal details	Revised to 30.04.2020
5	Export Return	TDECO	Monthly	Tea Exporters	07.04.2020	Captures monthly export quantity, value, port of shipment, category wise teas exported etc.	Revised to 30.04.2020
6	Import return	TDECO	Monthly	Tea Importers	No date	Captures monthly import quantity, and CIF value, purpose for which the import was made	Revised to 30.04.2020
7	Annual Return	Tea Act	Yearly	Tea Garden owners	31.03.2020	Captures development activities carried out during the year including age of bushes and no of workers employed and their welfare activities	Revised to 31.05.2020

MHA vide notification dated 24.03.2020 has allowed functioning of Tea Industry, including plantation with maximum of 50% workers.

G. FACILITATION BY THE MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY (MPEDA)

MPEDA has started issuing most of the Certificates for exports online i.e. DS 2301 certificates for the USA market w.e.f. 1st April 2020. This is an essential certificate for the export of shrimp to USA. By making it online, the physical movements for the exporters have reduced. Another Certificate (Asia -Pacific Trade Agreement (APTA) also has been made online after the lock down was introduced.

H. Measures taken by Government e-market place (GeM) to facilitate procurement in view of the covid-19 pandemic

The status of various interventions for ease of procurement for COVID-19 related items are as follows:

- i. New page introduced for tracking COVID-19 categories and the number of sellers.
- ii. Shorter duration Bids with shorter delivery period enabled. Bid Cycle for COVID-19 related categories has been reduced to 3 days from existing 10 days. Buyers would also be able to reduce the Delivery Period for such items to 2 days considering the critical nature of the items.
- iii. A filter has been put in for Local Supplier and for Lead Time for delivery selection by the buyer, to facilitate early delivery.
- iv. Prioritization is being done in Product/Brand approval of the Covid Specific Categories.
- v. A new business rule has been put in place for controlling unreasonable price increase.
- vi. Delivery Period Extension have been allowed for 30 days beyond the expiry of the original Delivery Period.
- vii. New business rule to stock out sellers who do not update stock within 48 hours of notification for specific categories.
- viii. Original Equipment Manufacturers (OEMs) & Sellers for eight new COVID categories have been identified.
- ix. A Business Continuity Plan has been put in place for MSP and GeM to ensure continuity of system operations.

I. MEASURES TAKEN BY DEPARTMENT TO FACILITATE PREFERENTIAL EXPORTS IN THE COVID-19 PANDEMIC

- i. In the wake of the lockdown, the agencies authorized to issue the certificates of origin for India's preferential exports under the free trade agreement (FTAs) are either not functional or are operating with a skeletal staff. In the light of this, Department of Commerce had included some specific FTAs on this digital platform which had facilitated online application by exporters for



these certificates. Trade Notice 1 dated 7.4.2020 has added India's main FTAs namely those with ASEAN, Japan, SAARC countries and Asia Pacific Trade Agreement (APTA) onto this digital platform. A related Trade Notice 62 dated 6.4.2020 has asked the agencies to issue the digitally signed certificates to the exporters on this platform as also keep a uniform fee for certificates even if they are issued retrospectively. The platform issues digitally signed certificates and we have been successful in getting the trading partners to accept these digitally signed certificates. This would ensure that our preferential exports are facilitated even during this lockdown period.

- ii. Most of the exporters to the European Union (EU) avail of the EU Generalised System of Preferences (GSP) Scheme wherein they get tariff preferences on exports. While the EU GSP is on a self certification basis, the exporters have to apply to the prescribed agencies in India for getting a REX (registered exporter) number. In view of the closure of the offices of these agencies, Trade Notice 61 dated 2.4.2020 has prescribed the acceptance of scanned documents for getting the REX number so that the exporter has no physical interface with the agencies. This would ensure that exporters to EU under the EU GSP who have not got the REX number can apply electronically to the agencies (also known as Local Administrators for registration)

J. FACILITATION BY THE DIRECTOR GENERAL TRADE REMEDIES (DGTR)

Submission of documents in the Trade remedies investigation process has been done online or through digital transmission without having to submit physical copies. This has been enabled for both new investigations and ongoing investigations. Also the hearings and consultations are being carried out through Video conferencing.

Disclaimer

The information contained herein is of general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue in the future. No one should act on such information without appropriate professional advice after the thorough examination of particular situation.

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