

COVID-19 vis-à-vis EXTENSION OF LIMITATION

I. INTRODUCTION

In its endeavour to contain COVID-19 pandemic, the government has promoting the idea of social distancing and issuing directions and taking other preventive and mitigating measures. Resultingly, with limited physical movement, accessibility of legal forums including the registry for the purposes of filing of proceedings (including petitions/applications/suits/appeals/all other proceedings) across India has become difficult for the litigants. Hence, Hon'ble Supreme Court acknowledging the unprecedented situation, has taken *suo moto* cognizance and vide order dated March 23, 2020<sup>1</sup> ("Order") has extended the period of limitation for all the proceedings with effect from March 15, 2020 till further orders.

The Order has provided enormous relief to the litigants who were at the risk of getting their proceedings time barred by limitation, despite being diligent and without at fault, that is to say, period from March 15, 2020 shall not be counted while calculating time limits prescribed for filing of proceedings before all courts and all tribunals. The important features and application of the Order are summarized below:

1. Applicable for all the legal actions and proceedings including petitions/applications/suits/ appeals and others;
2. Applicable to the time limits prescribed both under General Law, such as the Limitation Act, 1963, or any other Special Law. Such law may either be a Central Law or a State Law;
3. Applicable to the proceedings before all the Courts and Tribunals and other Authorities across India;
4. Applicable to all the proceedings whether condonable or not.

**Order of Hon'ble Supreme Court of India**

*"This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State)."*

*"....., 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*

Further, the Order shall also be applicable to cases and proceedings, where the prescribed limitation is mandatory by virtue of applicable statutory provisions and the Courts and Tribunals doesn't have

<sup>1</sup> In *Suo Moto* Writ Petition (Civil) No(s).3/2020

inherent powers to extend the prescribed limitation period, such as matter governed by Commercial Courts Acts, Arbitration Act and many others..

Also, the extension of limitation by virtue of Order is only with respect to proceedings before Courts, Tribunals and other Authorities. The same shall not cover compliance requirements as envisaged under various statutes (such as under the Companies Act, 2013 or the Income Tax Act, 1961). Any extension with respect to compliance timelines may only be extended upon specific notifications in this behalf.

## II. ILLUSTRATIONS ON EXTENSION OF LIMITATION

#1 Under the General Law of limitation, that is, the Limitation Act, 1963, the period of limitation for specific performance of a contract is 3 years from the date fixed for performance<sup>2</sup>.

#2 Under a Special Law, such as the Securities and Exchange Board of India Act, 1992, the period of appeal before Securities Appellate Tribunal is 45 days<sup>3</sup> from the date on which a copy of the order, against which the appeal is filed, is received by the appellant.

By virtue of the Order, such period of 3 years/ 45 days shall be extended by the time between the effectuation of Order (March 15, 2020) till the date of revocation of such extension period by any further order of Supreme Court.

## III. POWERS OF SUPREME COURT

The Hon'ble Supreme Court has passed the Order by invoking its plenary powers envisaged under Article 142 read with Article 141 of the Constitution of India ("**Constitution**").

Article 142 of the Constitution empowers Supreme Court, in exercise of its jurisdiction, to pass any decree or order as is necessary for doing complete justice in any cause or matter pending before it. Such decree or order shall be enforceable throughout the territory of India in the prescribed manner<sup>4</sup>.

The powers of Supreme Court to make laws have been discussed in multitude of judgements. In the matter of *Vineet Narain & Others vs Union Of India & Another*<sup>5</sup>, the Supreme Court has held that by Article 142, the Supreme Court is vested with powers to issue necessary directions to fill the vacuum till such time the legislature steps in to cover the gap or the executive discharges its role. The Supreme Court may make orders which have the effect of law by virtue of Article 141 of Constitution.

<sup>2</sup> Entry 54 of the Schedule to the Limitation Act, 1963

<sup>3</sup> Rule 3 of Securities Appellate Tribunal Securities Appellate Tribunal (Procedure) Rules, 2000

<sup>4</sup> Prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe (*Article 142 of Constitution*)

<sup>5</sup> *Vishaka v. State of Rajasthan*, (1997) 6 SCC 24

Further, under Article 141 of the Constitution, the law declared by the Supreme Court shall be binding on all courts within the territory of India.

Hence, legislative power exercised by Supreme Court through the Order is compulsorily binding on all the Courts (including Tribunals and other judicial Authorities) across India.

#### **IV. TO SUMMARIZE**

The Order has been passed by the Supreme Court Of India by taking stock of the unprecedented situation, which is needed respite to the litigants facing difficulties owing to partial operations of Courts and Tribunals and limited movements of citizens, especially with respect to litigations where prescribed limitation period could have ended during the national lock down declared amid COVID-19 outbreak. The Supreme Court would be, through further orders, revoke the continuation of extension, and post which the limitation period shall be calculated in the manner as codified in general laws and respective special laws.

**Authors:** I Govind Rishi, Partner ([govind.rishi@corpacumen.com](mailto:govind.rishi@corpacumen.com)) I Pavish Singhla, Senior Associate ([pavish.singhla@corpacumen.com](mailto:pavish.singhla@corpacumen.com)) I **ACUMEN JURIS** I

**Practice Areas:** I Arbitration & Dispute Resolution I Corporate & Commercial I Acquisitions & Investments I

**Disclaimer-** *This Articles is for information purposes only, and the views stated herein are personal to the author, and shall not be rendered as any legal advice or opinion to any person, and accordingly, no legal opinion shall be rendered by implication.*

*The Article does not intend to induce any person to omit, commit or act in any particular manner, and that you should seek legal advise before you act on any information or view expressed herein. We expressly disclaim any financial or other responsibility arising due to any action taken by any person on the basis of this Note.*