

3<sup>rd</sup> April, 2020

# CORONAVIRUS (COVID-19): INTERPRETING SUPREME COURT'S ORDER ON LIMITATION

## 1. Background:

Considering the spread of Covid-19 in India and consequent lockdowns being declared across the country, litigants were finding it exceedingly difficult to file pleadings whether suits/appeals/petitions etc. in Courts/Tribunals across India.

On 23<sup>rd</sup> March 2020, the Hon'ble Supreme Court of India in the matter being Writ Petition (Civil) No. 3 of 2020, took suo motu cognizance of the difficulties faced by litigants due to the rapidly escalating COVID-19 outbreak (for short "SC Order"). It has held that with effect from 15<sup>th</sup> March 2020, the period of limitation for filing pleadings as specified in the 'general law on limitation' or 'any special law' enacted by the State/Central government, whether condonable or not, will automatically stand extended until further orders. It was also declared that the said order is a binding order within the meaning of Article 142 read with Article 141 of the Constitution of India on all Courts/Tribunals and Authorities. The operative part of the Order is as under:

*".....it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Law 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.....We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities....."*

## 2. Analysis:

The limitation period for filing any pleading such as a plaint, petition, application etc. is provided in:

- the General Law on Limitation in India, i.e. the Limitation Act, 1963 (**the Act**); or
- the legislation dealing with the subject matter of the

dispute, enacted by the State or the Central Government.

The Act under Section 2(j) defines 'Period of limitation'. It means a period of limitation prescribed by the Schedule of the Act for any suit, appeal or application under the schedule to the Limitation Act, which covers a range of claims and their timelines. Section 4 provides that if the prescribed period expires on a day the Court is closed, filing may be completed when the Court reopens and Section 5 grants the power to the Courts to condone the delay in filing beyond the prescribed time period.

The limitation period for filing a suit for breach of contract is three years from the date the breach occurred, as provided in the Act. On the other hand, the limitation period for filing an appeal against an order of the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 enacted by the Central Government is 30 days as provided in the Code itself. The SC Order will also cover statutes where the limitation period prescribed is mandatory and the Courts/Tribunals do not have the power to extend the limitation period.

Article 142 of the Constitution empowers the Supreme Court to pass any order necessary for doing complete justice. It must be noted that any decree so passed or orders so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament. Article 141 prescribes that the law declared by the Supreme Court shall be binding on all courts within the territory of India. Articles 141 and 142, read together, therefore vest power in the Supreme Court to inter alia fill the lacunae in existing laws, in the interests of justice, which the legislature is not able to fill. Article 141 gives finality to any law laid down by the Supreme Court thereby bringing consistency in the judicial system.



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That the present lockdown cannot be treated as a routine court vacation, which is why the Hon'ble Supreme Court has made a conscious decision of invoking its inherent powers under Article 142 read with Article 141 of the Constitution of India and not Section 4 of the Limitation Act, 1963. The Hon'ble Supreme Court was well aware of the fact that such "extension of limitation" is not stipulated within the scope of Section 4 or any other provision of the Act. The SC Order has sought to go beyond the benefit of Section 4 of the Act, and in effect, "suspended" the period of limitation for all filings and accordingly used the word "extended".

However, those cases where the prescribed limitation period has expired before 15<sup>th</sup> March 2020, are not covered by the SC Order and such cases will be dealt with by the respective Courts/Tribunals on a case by case basis as per the applicable law.

### **3 Conclusion:**

- The SC Order has indeed provided immense relief to litigants across the country who are due to make filings in various courts / tribunals and are unable to be physically present in court, or undertake any travel for these filings on account of the 'lockdown' measures.