

IMPACT OF COVID -19 ON COMMERCIAL CONTRACTS IN INDIA AND GLOBALLY

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ABSTRACT

COVID-19 is become pandemic virus where there was no solution till now. But it laying great impact on commercial contracts in India and globally. Specially countries like India because India is largest man based productivity country. This COVID-19 situation makes everyone to struck in the financial crises which may lead to financial emergency but our country has made a certain plans to outcome from this COVID-19 situation. China has used the force majeure to face the liability of non performance of contract which is impossible at this situation. Also many future development program are suspended where it is impacting on the vulnerable sections of people who run on contract based and daily wage workers.

KEYWORDS: COVID-19, Commercial Contracts, Pandemic Virus, Vulnerable Sections.

Introduction

Impact is always plays a crucial role in everyone's life either physical or mental or either by business etc. It was clearly seen how this unpredictable situation can be impact on commercial contracts in India and globally also who our India is been segregation of this COVID-19 situation.

Analysis

Implementation of lockdown and its impact say as it is a well acknowledged fact that a total lockdown is absolutely essential to break the chain of transmission and the government has taken steps based on sound scientific advice. The manner it enforced at the ground level has led to severe disruption day to day life. The government has failed to enforcement of the such a total lockdown most severe disruption felt in the essential items such as a food items, groceries also mentioned by prime minister the manner it enforced by the ground level of police as it failed to supply the essential needs , as soon as the prime minister announced the total lockdown the ministry of home affairs invoked the special powers of the central government by the disaster management act 2005 allows the center government to override the decisions which had already taken by the state governments. Such violence confusion and panic could have been avoided the central government had planned the exercise by the consulting the state governments.

The economic impact of lockdown is being literally referred to an economic shutdown because it has brought the 200 lakh national of the India to a complete stand still as expected the biggest impact of the lockdown be felt by the vulnerable sections of the people who are part of the informal economy this includes daily wage earners , rural poor and rural earners as the standstill and the supply items is being disrupted the biggest impact of the lockdown will be felt by the poor and the weaker sections of the society as the finance minister has extended the tax deadlines and brought some relief to the some taxpayers.

Impact on Indian Economy

As the government has to come up with the larger packages to deal with the economic stimulus. The impact of the corona virus on the Indian economy can be divided into four channels:

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- First impact on the Indian external demand.
- Second impact on Indian's domestic demand.
- Third impact is supply disruptions that can be caused due to lockdown and the slowdown in the global economy.
- Fourth are massive disruptions in the financial markets.

The supply chain disruption caused due to covid-19 pandemic , as it is likely caused under many contracts will be delayed interrupted and cancelled and the counterparties (especially suppliers) to such contracts may cause or delay in the and avoid the performance / non – performance of liability)of their contractual obligations and to terminate contract s because of the pandemic covid -19 has legitimately prevented from performing their contractual obligations , because they use it as an excuse to extricate themselves from an unfavorable deal.

Force Majeure Played Role in Other Countries

On February 17, 2020 the China Council for the promotion of international trade as it already issued over 1600 'Force Majeure certificates to firms in 30 sector, covering contracts worth over \$15million. But in India , the department of expenditure , procurement policy division, ministry clause that of finance issued an office of memorandum on February 19,2020,in relation to the government 's manual for the procurement of the goods 2017 , which says guidelines for procurement by the Government , as the office of memorandum says that COVID 19 is outbreak covered by the force majeure is covered as the natural calamity. AS according to the survey the impact on the pandemic 50 percent of Indian companies see impact on the operations and nearly 80 percent have decline of the cash flow.

INDIA is having the huge population in the country the density of people is more especially, as we all know that still in the list of developing country and due to this Covid-19 if it increases there is chance of huge loss of human life. As it can't be controlled or neither it has the vaccine to it. As we know that pathogen causing coronavirus still continue as we know that many countries have put many restrictions, lockdowns and extremely put the human movement is restricted. Recently, even in the supreme court of India had invoked its plenary powers under article 142 of the constitution to extend the limitation period by the way of suspension in all the cases against the usual time line as enumerated under the limitation act 1963.

As there is a wide impact on the Indian economy as such a negative impact on the world economy also impacted on the domestic market chain at its core. The major impact is on the supply chain and unintentional and imminent delay in the performing of the contractual obligations as the additionally it largely impact on the land acquisition like delay in big projects and financial of big projects and investments also at this time of unfortunate state of affairs parties to commercial contracts and legal experts nationally and internationally are continuously reviewing and assessing their contractual provisions for discharging the commercial arrangement particularly force majeure it squarely forms a defense against the grunt norm of PACTA SUNT SERVANDA(Latin meaning is agreements must be kept.)

This impact leads to large sections of low wage earners. In the present scenario arising due to the Covid-19 pandemic, the government of India has also taken steps to safeguard the interest of parties in the commercial contracts. The ministry of finance, the government of India vide an office memorandum dated 19.2.2020 recently clarified with the manual of procurement of goods act ,2017 and declared the event of the any disruption in the supply chains due to spread in corona virus in china or any other country such situation should be considered in the force majeure clause maybe invoked, wherever considered appropriate, the following the due procedure the said manual is issued by the ministry of finance for various goods under the delegation of financial power rules, which have to be exercised in conformity with the procurement guidelines. Even similar initiative was taken by the ministry of new and renewable energy with the respect to solar project developers, the ministry vide the office declared recently on April 20 2020, obligation deadlines on account of Covid-19 can invoke the force majeure clauses to avoid financial penalties.

Also ensure the notice and procedure as prescribed in the conditions of the contract conventional notice formalities mutually analyze the impact of the outbreak of the Covid-19 on the contract and the performance also collect the evidence of the non performance of the obligation to the sole force majeure event in this current scenario, the pandemic also keep the records of the various notifications and the orders of the government and the concern administrative departments. The same

may be evidenced during the litigation or arbitration stage. All records with respect to unavoidable additional expenditure incurred must be maintained. As the government is giving so much of additional securities and managing the things to be kept in a better way but as it is impacting on the large scale as the fact is that one has to live without work is impossible in the present because as we know India is still in the developing stage where large population where most of the young people will have unemployment issues will have more chance to increase also most of them will be likely to go back to their native places because of no work this will cause non-interest to come back for work again. Also we can see due to the Covid-19 pressure led in the business discontinuity, multinationals are looking to exit or renegotiate by using AVANCED PRICING AGREEMENTS as the tool used by the taxman to reduce transfer pricing disputes, " for any contract there will be an exiting clause and many multinationals that had entered in APA's would look at those. These are some of the major outbreaks of this pandemic situation. It impacts every sector not only in India also globally.

Conclusion

As we can see that impact in India is largely segregated by the four sectors and how it was implemented by the force majeure clause specific in the global countries use this Covid-19 situation as pandemic where they can't perform the contract. It impacts in our country like huge population.

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