

Covid-19 - Supreme Court extends limitation period for filings in all Courts/Tribunals

26 March 2020

This analysis covers:

1	Background	1
2	Analysis	2
3	Conclusion	2

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.

Taking cognizance of the situation, the Supreme Court of India has *suo motu* by its order dated 23 March 2020 (**Order**), provided major relief to litigants. It has held that with effect from 15 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 its further orders.

The Supreme Court of India has directed that with effect from 15 March 2020, the period of limitation prescribed for filing any pleadings before any Court/Tribunal across India will stand extended until further orders.

2 Analysis

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

- a. the general law on limitation in India, i.e. the Limitation Act, 1963 (**Limitation Act**); or
- b. the legislation dealing with the subject matter of the dispute, enacted by the State or the Central Government.

For instance, the limitation period for filing a suit for breach of contract is three years from the date the breach occurred, as provided in the Limitation 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 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. For such filings, there was a risk that litigants may have altogether lost their right to file the pleading if they were unable to do so within the specified limitation period.

Interestingly, the Supreme Court has expressly invoked its powers under Article 142 of the Constitution read with Article 141 of the Constitution of India (**Constitution**). Article 142 of the Constitution empowers the Supreme Court to pass any order necessary for doing complete justice. This is an extraordinary constitutional power that allows the Supreme Court to venture beyond the prohibition and restriction in ordinary legislation to meet the ends of justice.

Further, Article 141 of the Constitution incorporates the principle of *stare decisis* and provides that a law declared by the Supreme Court will be binding on all Courts in India. Article 141 gives finality to any law laid down by the Supreme Court thereby bringing consistency in the judicial system. The Supreme Court in its decision has expressly stated that the Order is passed in exercise of its powers under Article 142 of the Constitution and is binding on all Courts/Tribunals and authorities, as per Article 141.

Consequently, cases where the limitation period (whether condonable or not) for filing a pleading before any Court or Tribunal across the country was scheduled to expire on or after 15 March, the same stands extended till the time the Supreme Court passes any further orders in the matter.

This Order will apply to all proceedings before:

- State High Courts,
- subordinate courts in the States, and
- all tribunals functioning in India.

However, those cases where the prescribed limitation period has expired before 15 March, are not covered by this 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

Litigants were facing significant logistical challenges on account of Covid-19 outbreak across the country over the last few weeks. Even before the nationwide curfew of 21 days was announced, filing counters at the Courts and Tribunals were already thinly functional. There was lack of clarity on the consequences of non-filing within

ANALYSIS

the limitation period. The Order, therefore, provides that much-needed clarity regarding the extension of limitation period in the current scenario.

If you require any further information about the material contained in this newsletter, please get in touch with your Trilegal relationship partner or send an email to alerts@trilegal.com. The contents of this newsletter are intended for informational purposes only and are not in the nature of a legal opinion. Readers are encouraged to seek legal counsel prior to acting upon any of the information provided herein.