

SUPREME COURT FINALIZES THE PERIOD UNTIL WHICH LIMITATION WAS EXTENDED ON ACCOUNT OF COVID-19¹

Why was the original extension granted?

Due to the outbreak of Covid-19 pandemic, litigants across the country faced grave difficulties in filing their petitions, applications, suits, appeals and all other proceedings, within the limitation period prescribed under the general law of limitation or under special laws. The Supreme Court of India, suo moto took cognizance of this issue and passed an order on March 23, 2020 (**Order**), extending the limitation with effect from March 15, 2020, irrespective of the limitation period prescribed under the general law or special laws, whether condonable or not, applicable across all Courts, Tribunals, and authorities. No outer limit was then specified considering the virulent spread of the pandemic at that point in time.

Further, by an order passed on May 6, 2020, the Supreme Court extended the application of its previous Order on all periods of limitation prescribed under the Arbitration and Conciliation Act 1996 (**Arbitration Act**) and under Section 138 of the Negotiable Instruments Act 1881. The apex court signaled that the outer limit of the Order would be until 15 days after the lifting of lockdown in the jurisdictional area where the dispute lies or where the cause of action arose. This led to tremendous confusion across jurisdictions, more so when the 'lockdown' circulars were replaced with 'unlock' circulars.

On July 10, 2020, further issues arose when the extension in terms of Section 12A of the Commercial Courts Act 2015, was given an outer limit of the period of lockdown plus 45 days thereafter.

Why has the extension been withdrawn and to what extent?

In view of the changing scenario relating to the pandemic and various unlock guidelines issued by the Government of India, yesterday, on March 8, 2021, the Supreme Court redefined the extensions granted by its earlier orders passed on March 23, 2020 and May 6, 2020. The court held as under:

- The period from March 15, 2020 to March 14, 2021, was excluded for computing limitation and if any balance period of limitation was remaining as on March 15, 2020, the same shall become available with effect from March 15, 2021,
- if the limitation period expired during the period between March 15, 2020 to March 14, 2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from March 15, 2021. The Court further clarified that, in the event the actual balance period of limitation remaining, with effect from March 15, 2021 is greater than 90 days, then the longer period shall apply.

How does this affect me?

If you are a potential litigant who was unable to approach court during the pandemic, the limitation period that was applicable basis your cause of action, needs to be calculated. Herein below is our understanding of the order of the Supreme Court

- If your limitation did not expire within the said period but began running prior to such period, the entire period between March 15, 2020 to March 14, 2021, stands excluded while computing limitation.
- If such limitation period expired within the confines of March 15, 2020 to March 14, 2021, but after 90 days from March 15, 2020, for example it expired on December 15, 2020, then you will have until December 15, 2021 to pursue your claim else it may be time barred.
- If such limitation period expired within the confines of March 15, 2020 to March 14, 2021, but before 90 days from March 15, 2020, for example it expired on April 21, 2020, you will have 90 days beginning from March 15, 2021 to pursue your claim.
- If your limitation did not expire within the said period but began running during such period, the entire period between from the day when limitation started running up to March 14, 2021, stands excluded while computing limitation.

It is thus important for such affected litigants to understand closely how they can take advantage of such order and until what time.

Importantly, the court directed the Government of India to allow movement on account of time bound application for legal purposes in containment zones. Thus, litigants will not be penalized or subject to any punitive action if their movement in containment zones is towards pursuing their legal remedies which may otherwise become time barred.

We hope you have found our update an interesting read. We welcome any comments/queries/clarifications you might have. Do reach out to us at insights@elp-in.com

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