EVERYTHING THAT CONCERNS YOUR MONEY

THE GREEN DIGEST

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UNLOCK 2.0

PEOPLE OR THE ECONOMY?

FOR PRIVATE CIRCULATION ONLY

Unlock 2.0 : Lock the people, and unlock the economy.

On January 30, India announced it's the first case of COVID-19 when a student from Wuhan returned to his native in Kerala. It took a while for the Government to realise that India could be the next pandemic hit China, however, security checks were placed at airports instantly. On March 11, the World Health Organization (WHO) declared that a pandemic is upon the world. By this time India already had 500+ cases and the markets were already testing the floor bands, in anticipation of what future had for us. It came down to a decision, a critical one – whether the Government should care about the people or the economy?

The decision seemed pretty clear back then, "save the people, the economy isn't important" cried the nation, and thereby on March 22, Prime Minister Narendra Modi declared that India would be locked down for 21 days as safety precaution. The lockdown felt successful when Government officials declared how the doubling rate was decreasing. However, as good as it might sound, the fact was swept to corner that the cases were still rising, though at a slower pace, yet rising every day, even when the country was locked down.

Today after a series of 'Lockdown' totaling to 80 days and phases of 'Unlock', we rank fifth in the world – both in terms of GDP as well as COVID-19 cases. This entire time, neither did we protect the people, nor the economy! Our eyes were glued to the virus tracker and other diversions, however, there exists no tracker to explain how badly the economy was being hurt. It took a long time to realise that if COVID-19 doesn't kill us, probably the economy will, slowly, over time. In a series of lockdowns, we first tried to protect people, but the economy suffered. So, we tried a revival of economy through relaxations, however, now the people are suffering. First the cases were slower, but the economy tumbled like 9/11, now the economy is gradually recovering, however, the cases are on rise. We have been locking down the economy, and unlocking the people, while we really should be doing the opposite. The harmony lies in locking out the people and yet running the economy in neutral gear. Easier said than done, Government cannot do this alone, it has to be every individual's initiative. The COVID-19 virus is going to stay around for a long time, probably its nature's way of schooling us how we ought to live. So, we will have to find our way of living along with it.

The virus has maximum impact when people gather in large – workplaces, places of worship, entertainment programs, shopping complex and malls, vegetable markets, slums, travel junctions like airports, railway stations and bus stands, public transports, schools and colleges, community events and weddings, etc. Workplaces are capable of managing themselves. Small and Medium Enterprises have a limited number of employees where everyone knows each other personally and it's easier to keep everyone in check. Large Corporations have the resources to spend to keep a tab on their employees. Many corporates already have work from home facilities and policies. If the Government provides a few incentive or relaxations, corporates would happily the rest on their own. Retail shops can also get crowded, however, with sanitization rules and strict vigilance by local authorities, this too can be managed. Workplaces follow a discipline and therefore, with rules and co-operation, it's practical to keep them running. The places that do not have a written discipline are those which relate to entertainment, worship, events or shopping. Clearly, 2020 doesn't seem to be a year for events or entertainment. After almost two decades of celebrating the rise of numerous social media and mobile entertainment, it's probably time we stick there for the rest of 2020 if we are desirous of a better new year. Goods transport should continue in ordinary course, however, passenger travelling will have to be restricted for the rest of the year. Essential services have to be made available in every ward of the city, to ensure people don't travel across the city. Besides, citizens also have to give up their non-essential needs. Community events and weddings, needless to say, will have to be either amongst close ones or avoided altogether this year.

Schools and colleges probably will have to stay online, instead of campus. The internet-friendly generation won't find e-learning difficult, however, the parents would have a hard time accepting it. BYJU's has been depicting this scenario in its advertisements for a long time now. The examination system of our country was long due for a big revival. Now, it's time to overhaul the same, and make it more merit-based than the scores. Students have to be promoted without stamping them with marks and ranks and so will the corporates have to while hiring them. Back in days when education wasn't as prevalent as today, people were hired and trained on the job. Not that the students aren't capable, most of them need additional training and some guidance from experienced, to make them suitable for the job. Candidates are anyways trained, a little more efforts can result in a better world.

The rest is Government's job, slums have to be taken care of, public healthcare systems have to be stronger, and the authorities have to act as a public guide, not power-laden offices – not something new that we ask for, it's just more necessary than ever now. Elections need to be more organized with scheduled time defined for categories of voters. Tax authorities may not provide exemptions, however, least they can do is to relax the filing and payment norms. The government needs to do more than merely 'announcing' campaigns, it needs to generate employment opportunities and provide incentive or subsidies for producing Chinese or other import substitutes locally. Calling for ban is appropriate, however, we need good quality competitive alternatives first.

We have talked about sustainable living for years now. It's time to implement it and rebuild a world where we are in harmony with nature.

(This article was contributed by the editorial team).

Decriminalizing cheque bounce – Removal of a hurdle or provision for a new one?

By Amit Chandak, Associate Director, Greenvissage

The Announcement

Ministry of Finance has announced that it intends to decriminalize a list of 39 minor offences relating to 19 different laws which are not serious in nature, however, the punishment is punitive. Their rationale is, if we stop criminalizing some small offences, it could improve significantly improve ease of doing business in India (and the rankings), meanwhile also unburden our overburdened judiciary, so that they can focus on more critical crimes.

So far, the rationale does make sense as various regulations which relate to minor technical defaults or procedural lapses ensue criminal liabilities, leading to a huge stack of judicial cases or undue hardships to the entrepreneurs. However, when you look at the entire list, one of these offences listed, relates to dishonored cheques, which criminalizes cheque bounce due to any reason, as criminal offence and punishable with jail time. This hasn't gone down well amongst the business fraternity.

What is the law surrounding cheque bounce?

Under the Negotiable Instrument Act, 1881 section 138 mandates that if a cheque duly presented is returned unpaid by the bank, because of insufficient balance, the person issuing the cheque is deemed to have committed a criminal offence and can be imprisoned for a term extending two years or with fine up to twice the amount of cheque, or even both. In 2012, the apex court further added signature mismatch as an offence similar to insufficient funds and thereby entailing the same punishment. Thus, a simple failure to maintain sufficient balance or signing the cheque incorrectly may lead to jail time up to two years and a hefty fine. However, the section further provides that the drawee must notify the drawer of the cheque being returned unpaid within 30 days of receipt of information from the bank, and demand payment of the amount in such written notice. The drawee may opt for judicial proceedings if the drawer fails to make the payment within 15 days.

Why is the offence being de-criminalized?

As per 213th Law Commission Report, there are about 40 lakh cases pending in Indian courts which relate to cheque bounce. One can understand the quantum of these cases by assuming even if all the courts work full time on these cheque bounce cases, it would still take years to clear all these pending cases. It is unjust to expect the judiciary to clear these cases as there are many other important and long overdue cases pending with the courts. Ranjan Gogoi, the Chief Justice of India while addressing a public function mentioned that of about 90 lakh pending civil cases in India, there are at least a 1,000 cases which have been pending for more than 50 years while 2 lakh cases pending for more than 25 years. Clearly, the judiciary is overburdened and the cheque bounce cases are not helping the situation. However, the pending cases do not depict the entire picture as many of these cases are pending owing to the absence of the accused. Unless the accused shows up for the hearings, it takes 2 to 15 years to dispose of these cases. Meanwhile, most of these cases of are being forced to be settled by arbitration or settlement out the course as neither the court can dispose the cases quickly, nor the delay helps the plaintiff as the cost of compliance turns heavier.

Besides, these cases are unlike other criminal cases where the Government agencies are involved who investigate or provide reports of the offence. Here, it is the responsibility of the plaintiff to prove the case, provide all evidence and bring in the witnesses, which further adds to the hardships. So criminalizing the offence, is in no way helping in expediting the redressal of the situation.

Why the offence shouldn't be decriminalized?

Yes, there is no speedy redressal of the case, however, the offence being criminal in nature itself is a big deterrent to committing the offence. Nobody wants to have a criminal record, and thus, there is an unsourced trust that the issuer of the cheque would come good on his obligation. If cheque bounce is de-criminalized probably the way business people see a cheque would change, the trust on cheque payments would be reduced to an extent.

Real estate developers who sell flat often arrange for housing loans as well. Such a transaction is facilitated by getting post-dated cheques from the homebuyer. Of course, there are collateral securities, however, it is not easy to liquidate them, as many delaying tactics and stay orders can be obtained. On the other hand, if the post-dated cheque provides an added comfort without any efforts, as the issuer can go to jail if the cheque bounces. It's much easier to initiate proceedings in case of cheque bounce than taking possession of the house.

This is the reason why the industrialists and the professionals are not convinced that de-criminalizing the cheque bounce cases is a prudent move. A bounced cheque is as good as paying someone with counterfeit currency. It's a serious crime, amounting to cheating, as the receiver is under false impression that the issuer has sufficient money to pay off his dues. Hence, cheque bounce cannot be remarked as a minor offence.

What else could be done?

Amongst other amendments, even implementation of Insolvency and Bankruptcy code whereby lenders could initiate insolvency proceedings against the borrowers in default has also been suspended for another year due to COVID-19 pandemic – a move to ensure courts are not overwhelmed with cases. No doubt the courts are overburdened with legal cases, however, de-criminalizing the offence isn't a solution. The Government should look to simplify the procedures. To avoid undue hardships to issuer in genuine cases, the rules may provide for grace days in clearance and settlement process, to allow issuer a second chance to clear the payment due. The procedure for enforcing a bounced cheque and the process of prosecution should be simplified for speedy redressals. However, if the amendments go through, arbitration, conciliation or settlements would be the only remedies against bounced cheque.

Goods and Services Tax

- The Central Board of Indirect Taxes (CBIC) has announced a waiver of late fee for filing returns, in case of taxpayers who do not have any tax liability and a cap of INR 500 in case of taxpayers having liability. This applies for any returns from July 2017 to January 2020. Various professionals and taxpayers have remarked this as unfair to those who paid late fees. However, as per CBIC giving a blanket waiver to all taxpayers would also be incorrect.

- Sale of land with primary amenities like drainage, water supply and electricity would attract GST under the clause 'construction of a complex intended for sale to a buyer' as per the latest AAR ruling.

- Input Tax Credit cannot be availed against the GST paid on hiring commercial vehicles for transportation of employees, unless these services are obligatory under any law, according to a latest AAR ruling.

- Goods purchased and sold overseas directly without even entering India would still be liable to GST in case of a domestic company, according to a latest AAR ruling, in case of Sterlite Technologies. Such transactions would be subject to levy of IGST.

- Parotas are not Roti and would attract 18% GST instead of 5% as applicable in case of Khakhara, plain chapati or roti, according to a AAR ruling. The news drew hilarious remarks on social media.

- Part of Directors' Remuneration which represents Salary would not attract GST as the same is consideration for services by an employee to employer, in the course of employment, as per a latest AAR ruling.

- The Central Board of Indirect Taxes (CBIC) has further extended the validity of E-way bills with validity expiring between 24th March and 15 April, to June 30.

(For queries or more information relating to GST, contact our colleague Ashish Gandhi at ashish.gandhi@greenvissage.com)

Income Tax

- The Central Board of Direct Taxes (CBDT) has further extended the deadline for filing belated returns for FY 2018-19 to July 31.

- In order to provide relief to small and middle class taxpayers, the Central Board of Direct Taxes (CBDT) has extended the due date for payment of self-assessment tax to 30th November, 2020 in case the self-assessment tax payable is less than INR 1 Lakh.

- ITR Forms ITR-1, ITR-2 and ITR-4 for FY 2019-20 have been released, after earlier withdrawing the new forms to incorporate the new changes. The forms require additional information in respect of:
    1. tax-saving investments made during the period April to June 2020
    2. Cash deposits if exceeding INR 1 Crore in current accounts during the financial year
    3. Foreign travel spending if the same is more than INR 2 Lakh during the year for self or for any other person
    4. Expenses incurred on Electricity, if the consumption of the same exceeds INR 1 Lakh during the year
    5. Passport details of the assessee
    6. TAN/Aadhar number of tenant if tax deducted by tenant under 194-IB

- The Central Board of Direct Taxes (CBDT) has also extended the due date for making tax-saving investments for FY 2019-20 to July 31.

- The due date for making investments, construction or purchase for claiming rollover benefits or deductions from capital gains under section 54 to 54GB has been extended further to September 30, to be eligible to claim deduction.

- The due date for commencement of operations for the SEZ units for claiming deduction under Section 10AA of the IT Act has also been further extended to 30th September for the units which received approval by March 31.

- The Central Board of Direct Taxes (CBDT) has notified the Cost Inflation Index (CII) for FY 2020-21 as 301. The same for FY 2019-20 is 289 and for FY 2018-19 is 280.

- The Income Tax Appellate Tribunal (ITAT), Delhi ruled that transactions carried out through current account for business purpose would not fall within definition of 'Deemed Dividend'. The assessee had paid and received money from its subsidiary company. As per assessee the same were loans and advances while the Assessing Officer had made an impugned addition of all amounts received to the total income.

(For queries and more information relating to Income Tax, contact our colleague Sneha Halder at sneha.halder@greenvissage.com)

Corporate Laws

- The Ministry of Corporate Affairs (MCA) has provided relaxation for filing forms to create or modify charges. This is applicable for cases where date of creation or modification of charge is before March 1 and the timeline for the same as per section 77 had not expired; or in case of where falls due between March 1 and September 30. In such cases, the period from March 1 to September 30 will not be considered.

- The Securities Exchange Board of India (SEBI) has further extended the relaxation in time gap between two board meetings or audit committee meetings which is 120 days in case of listed companies, to July 30. This is applicable for meetings held or proposed to be conducted between December 1, 2019 to June 30, 2020.

- The Government has proposed to decriminalize various minor offences under Limited Liability Partnership Act, 2008 applicable to LLPs. These offences which are being decriminalized relate to:
  1. Appointment of designated partners
  2. Registration of changes in partners
  3. Maintenance of accounts, records audit
  4. Filing of annual returns

(For queries and more information relating to Corporate Laws, contact our colleague Adnan Ginwala at adnan.ginwala@greenvissage.com)

Customs and Foreign Trade

- The customs department has launched faceless assessment of consignments in a bid to improve transparency and ease of doing business. The first phase has begun in Chennai and Bengaluru.

- The Ministry of Finance (MoF) is considering exemption to Non-Chinese companies from the recently announced 100% physical check of imports by foreign companies. A representation was made in this behalf by the Department for Promotion of Industry & Internal Trade (DPIIT).

- India has imposed anti-dumping duty on imports of certain type of steel products from China, Vietnam and Korea for next five years in order to safeguard domestic manufacturers from cheap imports.

- The Ministry of New and Renewable Energy (MNRE) has proposed to levy 20-25% basic customs duty on the import of Solar Panels, after end of safeguard duty regime on July 31.

(For queries and more information relating to Foreign Trade, contact our colleague Adnan Ginwala at adnan.ginwala@greenvissage.com)

Banking and Finance

- The Reserve Bank of India (RBI) has proposed a review of existing norms for Housing Finance Companies (HFCs) to define the term 'Housing Finance Business'. Accordingly, financing companies with 50% assets in housing loans and 75% of those for individual homebuyers would be regarded as HFCs. This review of norms further stipulates that HFCs cannot finance both the Real Estate Developer and the Retail Buyers of the same property.

- An ordinance to bring Co-operative Banks under the ambit of Reserve Bank of India (RBI) was raised by Ministry of Law and Justice. This ordinance was passed on June 29 and thereby, co-operative banks are now under direct supervision of RBI. This action was taken in the light of serious frauds and irregularities observed during the past year.

- In view of the continuing disruption due to COVID-19, Reserve Bank of India (RBI) has permitted lending institutes to extend the moratorium period on term loan instalments by another three months. Thus, the instalments falling due between June 1 and August 31 are covered by this moratorium extension.

- The Reserve Bank of India (RBI) Policy Rates as on June 30, were as follows:
  1. Repo Rate – 4.00%
  2. Reverse Repo Rate – 3.35%
  3. Marginal Standing Facility Rate – 4.25%
  4. Bank Rate – 4.25%

- The Reserve Bank of India (RBI) has further extended the relaxation in maintaining Cash Reserve Ratio (CRR) by banks, at 80% of the prescribed rate for a further period of three months up to September 25. Similarly, the relaxation in borrowing limit of banks from RBI which was increased from 2% of Net Demand and Time Liabilities (NDTL) to 3% earlier has been extended for a further period of 3 months up to September 30.

- Investment in Mutual Funds will attract 0.005% stamp duty from July 1 (deferred from the original implementation in January 2020). There will not be any stamp duty on redemption. Further, the stamp duty on dividend being reinvested will be imposed on the amount after deducting tax deducted at source (TDS). This change will affect liquid or overnight funds the most, as they are usually held for a short period.

(For queries and more information relating to banking and finance, contact our colleague Kethaan Parakh at ksparakh@greenvissage.com)

Accounting and Auditing

- According to the FAQs released by Institute of Chartered Accountants of India (ICAI) on IndAS, conduct of business during lockdown should be considered as 'in ordinary course' and therefore, inventories must be continued to be measured at lower of cost or net realizable value. If there is any reduction in selling price post balance sheet date, the same needs to be considered while arriving at the NRV, if the selling price reduction is due to the impact of COVID-19 and the lockdowns.

- Lower utilization of production capacity due to impact of the COVID-19 should be considered as idle capacity and therefore, normal production capacity should not be reassessed and fixed overheads should be allocated at the same capacity. Overheads remaining unallocated should be recognized as expense in the year in which they have been incurred.
- CSR contributions made by the company during first quarter of FY 2020-21, are deductible for the purposes of income tax, however, the expense must be accounted for in the next year in which they have incurred, as criteria of present obligation is not met as on balance sheet i.e. March 31. Deferred tax liability should be recognized in this behalf and the same must be explained in the notes to the financial statements.

(For queries and more information relating to Accounting, contact our colleague Rahul Mundada at rahul.mundada@greenvissage.com)

Payroll and Statutory Contributions

- Over 5.5 million salaried people have dipped into their retirement savings, resulting in outgo of INR 15,000 crore by Employees Provident Fund Organization (EPFO). Earlier the Government had amended the rules for partial withdrawal of EPF to allow withdrawal of three month wages, owing to COVID-19 pandemic.
- The Supreme Court has diluted the announcement by Ministry of Home Affairs directing employers to pay full wages or salaries during lockdown, in response to petitions made by industrialists. The apex court ruled no coercive steps can be taken against private employers who do not pay any wages or salaries to their employees during lockdown. Further, it directed state government labour departments to facilitate negotiations between employers and employees.

(For queries and more information relating to Payroll, contact our colleague Kumari Snigdha at kumari.snigdha@greenvissage.com)

Economic Indicators

- Latest statistics relating to the key economic indicators of Indian economy stand as follows:

Indicator	As on	Current	Prior
GDP Growth (%)	Mar-20	3.10	4.10
Inflation (%)	Jun-20	5.84	6.58
Unemployment (%)	Jun-20	11.00	23.50
Trade Deficit ($m)	May-20	3,150	6,760
GOI Bond 10yr (%)	Jun-20	5.89	6.04

- The movement in the major indices of various stock exchanges across the world, during the month of June, 2020 was as follows:

Equity Index	Country	%
NIFTY 50	India	+ 4.52
BSE SENSEX	India	+ 4.70
INDIA VIX	India	– 6.63
NIFTY BANK	India	+ 7.05
DOW JONES	USA	+ 0.27
NASDAQ	USA	+ 4.69
S&P 500	USA	+ 0.63
FSTE 100	UK	– 1.29
NIKKEI 225	Japan	– 0.91
SHANGHAI COM	China	+ 3.58
MOEX	Russia	– 1.91
CAC 40	France	+ 0.92
DAX	Germany	+ 1.88
ASX 200	Australia	+ 1.70
BOVESPA	Brazil	+ 4.40
FTSE STI	Singapore	– 0.06
KOSPI	South Korea	+ 0.93
HANG SENG	Hong Kong	+ 1.80

- The movement in the major commodities futures with latest expiry, as per MCX during the month of June, 2020 was as follows:

Commodity	Expiry	Price	%
Gold	05/08	48,762	+ 4.01
Silver	03/07	50,364	+ 2.18
Crude Oil	20/07	3,015	+ 10.92
Natural Gas	28/07	130	– 3.19
Aluminum	31/07	144	+ 8.04
Copper	31/07	465	+ 10.06
Cotton	31/07	15,760	– 1.66

- The movement in the reference rates of major global currencies during the month of June, 2020 was as follows:

Currency Pair	June 30	May 31	%
INR/1 USD	75.53	75.64	+ 0.15
INR/1 GBP	92.68	93.71	+ 1.10
INR/1 EUR	84.67	83.91	– 0.91
INR/100 YEN	70.15	70.56	+ 0.58

- The movement in the major cryptocurrencies during the month of June, 2020 was as follows:

Currency	Pair	Price	%
Bitcoin	BTC/USD	9,164.50	– 3.88
Ethereum	ETH/USD	227.57	– 4.14
Tether	USDT/USD	0.99	+ 0.02
XRP	XRP/USD	0.18	– 13.58
Btc Cash	BCH/USD	227.57	– 10.91

- Employees Provident Fund Organization (EPFO) has declared the interest rate for Employees Provident Fund (EPF) deposits for FY 2019-20 will be 8.50%. This is a 0.15% reduction in the rates. The interest rates were 8.65% for FY 2018-19, while the same were 8.55% for FY 2017-18.

- The rate of return of small savings schemes of post office as compared to prior period is as follows:

Scheme	20-21 Q1	19-20 Q4	%
Savings	4.00	4.00	0.00
FD (5 years)	6.70	7.70	– 1.00
RD (5 years)	5.80	7.20	– 1.40
NSC	6.80	7.90	– 0.90
PPF	7.10	7.90	– 0.80
KVP	6.90	7.60	– 0.80
SSA	7.60	8.40	– 0.80

Corporate News

- Reliance Industries Limited has become 'Net Debt Free' meaning the company's debts are now covered by liquid and cash investments. After making a series of deals to sell stake in its subsidiary 'Jio' and Rights Issue of its share, the company has achieved its target nine months ahead of schedule.

- Glenmark Pharmaceuticals launched anti-viral drug favipiravir under the brand name FabiFlu. This drug would be helpful for the treatment of patients with mild to moderate COVID-19 at a price of about ₹103 per tablet. The shares of the company recorded a 40% surge in a single day, after the announcement.

- Yes Bank will be announcing a Follow-on Public Offer (FPO) to raise capital from the public by issue of shares. The company is expecting to raise INR 10,000 crore from such issue.

- Vedanta Limited has received approval from the shareholders for delisting from National Stock Exchange (NSE). HDFC Life will replace Vedanta in Nifty 50 index from July 31, while SBI Cards will replace HDFC Life in Nifty Next 50 index.

10 Registrations, but 1 Single Form for Company Incorporation Over the past few years, India has been aggressively amending its laws, regulations, and procedures to simplify doing business in India. This is quite evident from the fact that India jumped from 142 to 77th rank in just 4 years. For businesses to prosper and the country to flourish, the businesses are a key stakeholder and the Indian Government is leaving no stone unturned to enable the same ...

A regulatory view on business structures for foreign investments in India Darkness is frightening in childhood, however, as we grow up, the fear of darkness is left far behind, because we are able to embrace it better. Knowledge empowers us, while uncertainty invokes fearfulness. If you are travelling to a foreign land, it's an adventurous trip. However, if your money is travelling to a foreign land, it's called a risky detour. Adventure in life translates to ...

Transfer Pricing – Understanding the concept of Arm's Length Price When we imagine big corporates, handshakes are one of the prominent flashes in our mind. We are often reminded that a good handshake is key to a good meeting. So, what's a good handshake? As experts list the rules – "Approach the person from his line of sight, look straight in the eye, keep a smile on the face, offer a hand when you have the attention, hold hand with a firm grip, with ...

FDI in India: An Overview of India's Foreign Investment Policy There's hardly any facet of life in India where the term *foreign* isn't trendy. People here have a special love for products which are foreign and trends which hail from the western world. However, the term received a real special status in 1991 when the country liberalised its investment policy to permit foreign entities and investors to enter Indian markets in various sectors which were prohibited earlier ...

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