

नारायण दास गुप्ता
Narain Dass Gupta



मैम्बर ऑफ पार्लियामेंट, राज्य सभा
Member of Parliament, Rajya Sabha
बी-4, ब्लॉक बी, गुलमोहर पार्क, नई दिल्ली-110049
B-4, Block B, Gulmohar Park, New Delhi-110049
Mobile : 9810375766 Tel. : 011-46111003
E-mail : ndgupta1945@gmail.com

Letter no. 1224

Date:20.08.2020

Respected

Subject: Extension for date of Holding Annual General Meeting under the Companies Act for Financial year ended 31.03.2020 with objective of "Ease of doing Business" & "Minimum Government & Maximum Governance".

Respected Madam,

At the outset, may I congratulate you on your sensitivity and promptness in delivering relief and respite to companies, professionals, and citizens at large in these unprecedented COVID times. The pandemic has impacted citizens and businesses specifically and adversely and has severely disturbed previously charted timelines.

Acknowledging the challenges faced by the people due to spread of Coronavirus, your good self acted swiftly and provided extension for various deadlines under the Income Tax Act, Companies Act, SEBI regulations, through The Taxation And Other Laws (Relaxation Of Certain Provisions) Ordinance, 2020, other circulars, notifications, etc and addressed many issues by allowing relief to the citizens & Corporates for making various statutory compliances.

In pursuance of the same goal, I am moved to submit my **request for a general extension for the date of holding Annual General Meeting (AGM) for the Financial Year 2019-2020 for Corporates**. Coronavirus and resultant lockdowns and restrictions have proved to be a serious impediment to business. I have been receiving grievances from citizens from across India related to this matter as I have enlisted below:

Challenges faced by businesses due to Coronavirus related limitations

1. OPERATIONS HALTED DUE TO LOCKDOWN(s)

Firstly, work was completely disrupted and disturbed due to the series of lockdowns and frequent conversion of many districts as containment zones that were announced to contain the spread of coronavirus and it may kindly be appreciated that even till date movement of people and commencement of economic activity is impaired insofar as means of public transportation viz Metro trains and Local trains in metro cities for intra-city movement and Railways, flights for inter-city movement and many states prescribed restricted entry of people into states. This has hampered the compliances, book-keeping and accounting by corporates and audit of secretarial records cost records & financial statements of corporates by auditors.

2. WORKING AT SUBOPTIMAL STAFF CAPACITY AS PER GUIDELINES

All the companies restarted their operations in a phased manner but as they were only able to work with 1/3rd staff strength as per guidelines, they were not able to perform at optimal efficiency and were largely engaged in sustaining existence by managing cash flow running from pillar to post before debtors for recoveries, creditors for extended credit periods and banks and financial institutions for enhanced financial credit. The focus of the corporates which includes promoters, managements, and other stakeholders, but naturally, was not on compliances and audit but sustainability in line with proverb ie "Jaan hai to Jahan Hai".

3. DISRUPTION OF FINANCIAL CALENDAR

For the facility of ready reference, it is submitted that Coronavirus related complications surfaced and the first phase of lockdown was implemented in the month of March 2020 which, as is known, is a very hectic and critical month in a Financial year for all books closure related activities. It played a significant role in deferring the deadlines and most of the accounting staff moved to native places particularly after Special trains were provided by the Government.

Further, since I have practiced profession of Chartered Accountants for over 50 years as such I am aware that the companies which are mandatorily required to get accounts audited by audit firms which include financial, Cost and Secretarial audit

are also feeling the loss of Audit Assistants and other financial staff as they were unable to carry out their responsibilities due to curbs on movement during earlier months and would now be seeking leave for preparation for the CA/CS/CWA exams, which has been postponed due to Corona Virus.

4. INABILITY TO CONDUCT PHYSICAL VERIFICATIONS DUE TO CURBS

Also, for Corporates that switched to work from home models, there are several aspects of financial book keeping for Corporates and essentially for audit of financial statements for AGM that require physical verification at multiple sites across states such as checking cash in hand, stock, etc. that could not be carried out due to curbs on movements of office staff.

Restrictions continue to impede work:

These challenges are preventing Companies from being able to prepare financial statements and get them audited by Chartered Accountants for financial audit, Company Secretary for secretarial audit and Cost Accountant(s) for Cost audits and fulfill other requirements for conducting the AGM. Seeing as certain restrictions continue, public transportation remains largely suspended and businesses are not yet working at full capacity even as we approach the end of August; it may prove counterproductive to expect preparation of financial statements on such a tight schedule. The timeline is even tighter as companies will need these documents ready latest the first week of September, 2020 to ensure that a mandatory 21-day notice can be given to Shareholders for the AGM to be held before 30th September, 2020.

General Extension for date of Holding Annual General Meeting will boost efforts and provisions made by your good office

1. Ministry of Corporate Affairs (MCA) vide Circular no. 20/2020 dated May, 5 2020, allowed corporates to conduct AGM through Video Conference or other Audio-Video mode during calendar year 2020.

This dispensation works for large and listed companies but w.r.t Corporates in MSME sector in general and other corporates in sub-urban/tier -2 cities and rural areas the stakeholders and directors are facing difficulties in having these meetings through Video conferencing and audio visual means due to issues in internet connectivity in remote places, lack of digital hardware for conducting meetings through digital means and lack of trained

employees to conduct meeting through digital means. With extension, companies will gain the opportunity to put in place a working digital infrastructure or for those lacking the capital to invest in that at the moment, may hopefully be able to conduct physical meetings in the near future.

2. Department of Revenue, has extended the due dates of tax audits and filing Income tax returns till November, 2020 due to which companies have already scheduled work, data preparation, audits and compliances accordingly.

It may kindly be appreciated that extending dates of tax audits on one hand under IT Act, 1961 by Department of Revenue through special ordinance and keeping the dates of financial audits same by MCA would defeat the purpose of extension through Ordinance.

3. General circular no. 28/2020, dated 17th August, 2020, the Ministry of Corporate Affairs acknowledged that foresaid situation may arise for companies and suggested that 'Companies which are unable to hold their AGMs were advised to prefer applications for extension of AGM at a suitable point of time before the concerned Registrar of Companies under the section 96 of the Act'.

It may kindly be appreciated that in present situation, it may not be feasible for every company to file Form GNL-1 for seeking extension of time for holding AGM with concerned ROC on or before 29th September, 2020 due to limited resources available with MSME Corporates struggling to ensure sustenance in these stressed times. The filing of form may also prove to be lengthy procedure as there is a requirement to pass a resolution through Board Meeting which may require internet connection and digital hardware which may not be available with MSME corporates and directors in non-metro cities. Also, after passing resolution, the corporates need to file the form with ROC along with **requisite fees (which ought to be avoidable in line with principle of "ease of doing business")**. Any delay in filing or errors may lead to serious consequences which results from non-compliances including fines and prosecutions.

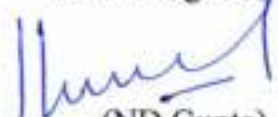
Section 96 of the Companies Act allows companies to seek postponement of AGM with reason and as an exception. Currently, due to circumstances created by Coronavirus pandemic, request for postponement of AGM is likely to be the norm as challenges brought on by it are ubiquitous. As such, expecting individual companies to hold board meetings, pay fees, submit applications, and await permission from the Registrar to postpone their AGM will not only increase exposure of office staff to Corona Virus but may lead to exponential spread of virus among communities. It also goes against the motto given by

Honorable Prime Minister Shri Narendra Modi ji of '*Minimum Government, Maximum Governance*' by increasing multiple interaction points for businesses with government officials. **It is kindly suggested that a general extension for the date of conducting AGMs may be notified so as to provide respite to all companies and millions of citizens of country as stakeholders that may be willing to avail it for the financial year 2019-2020.**

It would also ensure that AGM can take place after a comprehensive audit which would reflect more accurately on the position of companies in a Post Corona virus scenario and will find the citizen- stakeholders better placed to support life, fight Corona Virus and that would be in large public interest. I hope you will be able to appreciate that the nature of disruption caused due to Coronavirus pandemic is so serious that even the Indian Parliament remains adjourned till date.

Keeping in view the above-mentioned factors, I hope you will find merit in implementing extension of date for conducting AGM for all companies across the board. The above reflect the aspirations and requirements of thousands of companies, management, employees, and professionals such as Chartered Accountants, Company Secretaries, Cost Accountants. This would promote the cherished vision and initiative of Prime Minister of '*Ease of Doing Business*' and *Minimum Government, Maximum Governance*.'

Warm Regards,



(ND Gupta)

To,
Smt. Nirmala Sitharaman
Honorable Minister of Finance,
Govt. of India, North Block, New Delhi 110001