VISHAL TIWARI

ADVOCATE

SUPREME COURT OF INDIA

Member, Supreme court Bar Association

Date 15-6-2021

To

1. The Honourable Prime Minister of India
   Shri Narendra Modi
   Prime Minister's Office
   South Block, Raisina Hill
   New Delhi-110011.

2. The Honourable Finance Minister
   Smt. Nirmala Sitharaman
   North Block, Central Secretariate
   New Delhi. 110001

3. The Respected Governor
   Reserve Bank of India
   Shri Shaktikant Das
   18th Floor, Central **Office** Building
   Shahid Bhagat Singh Road
   Mumbai-400 001.

Respected Sir/Madam,

THIS MEMORANDUM/ REPRESENTATION IS SENT WITH A GREAT HOPE TO TAKE EFFECTIVE AND REMEDIAL MEASURES TO REDRESS AND OVERCOME THE FINANCIAL STRESS AND HARDSHIP FACED BY THE BORROWERS/CITIZENS OF THE COUNTRY DURING THE SECOND WAVE OF COVID19 AND LOCKDOWN.

AND IN THE LIGHT OF THE OBSERVATIONS MADE BY THE SUPREME COURT OF INDIA IN WRIT PETITION CIVIL PIL NO. 541 OF 2021 ORDER DATED 11-6-2021, TITLED AS VISHAL TIWARI VERSUS UNION OF INDIA

1. That presently our country is passing through the deadly second wave of COVID19, which has resulted lacs of deaths in our country. Because of this the almost all States imposed lockdown to reduce the impact and infection of corona virus, and in result the condition has improved. But the lockdown again has paralyzed the economic condition of our citizens. They are in a vulnerable situation because of slump in the business, loss of jobs, unemployment and their financial position has come down and will take some time to get improve. In this time they need relaxation from paying debt, EMI's to the lending institutions which are adopting harsh and

coercive methods for recovery and by Auctioning and eviction the property making the citizens homeless and compelling them to come on road. It will be against humanity and Human Rights if Such Acts are permitted in the present pandemic. Our Prime Minister has made efforts in granting free food grains till November as nutrition to poor people. The Same efforts are needed to help the middle class from the financial stress during the pandemic.

2. A Writ Petition Civil PIL No. 541 of 2021 titled as Vishal Tiwari versus Union of India and Ors, was filed by the Petitioner before the Honourable Supreme Court of India on the issue of Financial Problems faced by the Citizens of India in this Second wave of pandemic. The petition was disposed of on 11-6-2021 by the court by holding that the Financial matter are in the realm of government and it has to decide. The Court further Observed that –

" ***We, however, observe that all the issues, which are raised, are policy matters and it is for the Union of India and the Reserve Bank of India to consider and take appropriate decision."***

As the Apex court has also held that the Government can adopt decisive policy in financial matters, in this light we pray and request to the Union of India and Reserve Bank of India to adopt measures and make policy which could sufficiently redress the financial stress faced by the borrowers in the Second wave of COVID 19. **A true Certified copy of the order dated 11-6-2021 is Annexed herewith as Annexure -1.**

3. The CORONA VIRUS is the Engine and lockdown is a Wagon attached to it. Where the Virus goes, lockdown follows it. Both are disastrous, the Virus effects the health system and lockdown effects in several ways. The difference is that the later is adopted to bring down the Virus. The CORONA virus has proved disaster and to contain it the Measure of LOCKDOWN is adopted. The Citizens have Stood together to fight with this deadly virus and for this they have Sacrificed their Bread, their Earning, their hunger, their economy, business, jobs and even the future of their Children. But during this it is required that government should take every possible measure to keep the living of the citizens Comfortable and Easy. Their financial burden should be decreased and Citizens shall not loose their Dignity. Financial policies are made by the government but in present time above financial policies the question is of

Survival. And the population of our Nation shall survive with dignity and without any Stress.

Since the time of emergence of COVID-19 in India, the country has witnessed numerous havocs in the form of medical emergency, economic distress due to the subsequent lockdown to reduce the transmission rate of COVID-19 in India. The first wave of COVID-19 primarily in the year 2020 saw huge Financial Crisis and Slump for service sector/lawyers, Transport and Tourist Industry and other MSME industries.

4. In present time we are witnessing the Second wave of COVID19, which has resulted in heavy human casualties. The second wave has pushed again the entire country towards Lockdown. As corona has brought disaster, So the lockdown is also proving disaster for the economy. There is a big part of our population in our country which daily Earns and Eat. Their Survival depends upon the daily earning, like Daily wages workers, labours, tea vendors, Cart pullers, and even professional like Lawyers depend upon the daily earning. Lockdown has paused everything. The emergence of COVID 19 pandemic in India has brought serious repercussion in the form of unemployment, failed businesses and unengaged practise of

professionals. Such situation has now questioned upon the sustenance of the individuals. Various people have lost jobs during this situation of biological emergency and various professionals and independent litigators have gone through real financial hardship to sustain in this due course of time. Due to the lockdown scenario in the country because of the COVID-19, it has become a real struggling issue to pay off the monthly loan instalments of the banks taken for different purposes due to no salary, revenue for the individuals, defaults in paying the EMIs of the banks witnessed show the fact that the capability and the ability of the individuals to pay such has reduced as there is no constant and secured income of the legal professionals and independent litigators due to the closure of the businesses.

PRESENT FINANCIAL CONDITION OF CITIZENS DURING PANDEMIC

5. The unemployment rate has started rising again during the second wave of corona virus. As per to the Report of Centre for Monitoring Indian Economy around 1 crore of people have lost their jobs in the second wave corona virus. A person who is the Sole earner in the family has got Two,

Four or many dependents. And if the sole bread earner losses the job than it effects the dependents also, and thus if 1 crore have lost the job in the second wave than crores of citizens are effected financially.

lockdown almost in all states has again closed many small and medium businesses and MSMEs are also facing shut down. The income of the people have been severely effected and they are not able to pay their debts because of non - availability of funds. The professionals especially the lawyers are severely hit by the lockdown and non functioning of the courts. They are not able to pay their essential bills like electricity bills water bills and House/office rents. The travel and tourism industry is also again come to shut down as all movements and travel of the public has been restricted. The Safety measures, corona protocol and Restrictions will continue for a long time as there is Apprehension of Third wave Strike of Corona. This impact the business, private jobs and professions financially.

People are already suffering from medical problems, some have to sell their houses for paying the medical bills. The middle class is mostly financially effected class. Its income has come down.

6. The RBI has issued the circular dated 5-5-2021 as resolution plan 2.0 for the MSMEs and Individual borrowers. This circular is not sufficient to provide immediate relief to the borrowers in the present pandemic. The circular speaks about the eligibility criteria which prevents the vast number of borrowers from getting benefit of it. The RBI has laid down condition that on 31-3-2021 the Account shall be standard. This condition may not be imposed because already on 31-3-2021 the businesses of the people werenot good as impacted by the first wave in 2020 and lockdown. It cannot be said that prior to 1st April 2021 the everything was normal. Till 23rd march 2021 the Stay of honorable Supreme court was operating for not declaring any account NPA. It was vacated on 23rd of march 2021. RBI has left 8 days and granted the relief from 1st of April 2021. The borrowers whose accounts have been turned NPA in between 24th march 2021 and 31st march 2021 shall also be permitted to get benefit of the circular dated 5-5-2021 resolution plan 2.0.

The ECLGS scheme shall be implemented and shall be given. Last year availed the loan of 20% loan against ECLGS-1 but ECLGS-3 grants loan @ 40% to specific segments but MSME are not allowed additional loan of 20% loan under ECLGS-3 as if MSME not suffered during this covid. Most of Banks have earned huge revenues during last quarter.Banks should also be part of loss of pandemic & contribute to the country. As per bank interpretation, Hotel tourism & hospitality sector have taken loan @ 20% under ECLGS-1 & these segment will get additional loan 20% under ECLGS-3 .But others are not eligible to get additional loan under ECLGS-3 . the RBI shall clarify on this.

The other important issue is of regarding the Banks Non-cooperation towards the borrowers and Account holders. Whatever circulars and reliefs through them have been issued by the RBI in the present pandemic and earlier, these are not implemented by the banks in their letter and spirit. The banks do not work in coordination and not advising and conveying to the borrowers in proper manner. A borrower does not understand the all guidelines and instructions, it is to the banks and lending institution who has to approach the borrowers and ask them.

Many of the lending institutions use illegal methods for recovery and sending Goons, making abusive phone calls to borrowers. Threaten them. This cannot be permitted under rule of law and is against fair practise code. When any victim borrower approaches police for help than police also does not take any action against these recovery agents. In some cases borrowers commit suicide because of the torture by the recovery Agents. For recovery of the debt there is established procedure in law in our. Civil remedies are there but such illegal practises cannot be permitted in our civilized society.

In the light of Submissions made in this Representation it is requested that Our Government and Reserve Bank of India may Consider and take further the necessary steps and decisions to help the citizens/borrowers who are hardly hit financially during the second wave of COVID 19 by providing relaxation in paying EMI's, not turning the Accounts NPA , not evicting, dispossessing and auctioning of any property by the lending institutions till the Situation eases and Normalises and by protecting the borrowers from the illegal and violent methods of Recovery.

WITH HOPE AND REGARDS