

COVID-19: A Friction Less Journey for Indian Automobile Industry?

written by Mirza Aslam Beg | May 26, 2020



State of Affairs of the Automobile Industry Amidst COVID 19

The nationwide lockdown has stopped the growth cycle of the economy. It has severely affected every industry and the automobile industry is one of them. The automobile industry is one of the main pillars of the Indian economy and today India is turning into a global automotive hub. According to the Ministry of Heavy Industries and Public Enterprises, Government of India, the contribution of this sector to the National GDP, rose from 2.77% in 1992-93 to about 7.1%. It provides direct and indirect employment to over 19 million people[1].

The automobile sector's journey is challenging in these difficult times due to the lockdown imposed throughout the nation, however, certain relaxations are being provided by the Government of India to ease out the operations.

CHALLENGES & LEGAL ISSUES

Other than the problems being currently faced by the industry, the period post lockdown will not be an easy one. The challenges and legal issues which may arise before this sector post lockdown are:

1. Ban on Sale of BS-IV Vehicles and its registration: In October 2018, the Apex Court banned the sale of BS-IV vehicles and its registration from April 1, 2020. The Federation of Automobile Dealers Association (FADA) had moved an application to the Apex Court for the extension of the last date for selling BS-IV Vehicles but the same has been dismissed. As per the direction of the Supreme Court, the companies had to sell the balance stock of BS-IV vehicles to the customers before April 1, 2020, and after purchasing the same had to get registered in Regional Transport Office (R.T.O) by the customers on or before the said date. But due to pandemic COVID -19 and complete lockdown from March 24, 2020, many vehicles that had been sold by the companies and dealers before lockdown to the customers would not get registered by the R.T.O and it may attract a litigation burden on companies.
- Increase in Consumer Litigation: Due to a complete nationwide lockdown, the vehicles are not allowed to be driven on-road which affects the functions of and this may arise some technical and mechanical issues in the vehicles. The vehicle owners who possess the warranty card and services of the company may ask the companies to resolve their problem and in case if they found any defects in the vehicle then they can create a pressure on the Companies and dealer to change the vehicles or any specific parts of the vehicles by the

company/dealer at their own cost. Further, many customers whose warranty card and free services expired during the period of lockdown may approach the companies and dealers for their resolution upon the lifting of lockdown. Unresolved issues may result in the filing of a consumer complaint against the companies before the consumer forum. This increases the litigation on the company.

- Contractual Disputes & Litigation: The automobile industry also supports various small businesses that help in the manufacturing of spare parts and raw materials of the automobiles but now, there is a possibility of contractual disputes and payment disputes between the companies and small and medium enterprises. Apart from that the companies may also face the problem of liquidity crunch so there is a possibility that the company may default to make payment to the debtors and it increases the litigation for the companies.
- Employment Issues: Due to a lack of demand and supply and to distress the financial burden the companies are terminating the employees to sustain the business. Since, the employees are being terminated on short notice, they are opting to file court cases against the companies with the help of labor unions.
- A slowdown in economic growth: The impact of the outbreak of this pandemic would be seen in the worldwide economy post this lockdown phase. However, the Indian government is taking various measures for economic reforms to overcome from this slowdown, but it's not an easy task to get the economy back on track in such a short period. This specific challenge is also an epicenter of all other issues and challenges.
- Potential bankruptcies: This problem arises before the companies because the manufacturing units are not functional and they have to use their reserves and surplus to meet their unavoidable expenses. This has badly affected the financial position of the companies which has paved a way to potential bankruptcies.
- High cost of vehicle finance: Vehicle Finance plays a vital role in the automobile industry and most of the Indian consumers prefer to finance their vehicles to meet their needs but due to economic slowdown, the finance companies will increase the rate of interest which puts an extra burden on the pocket of consumer and they will avoid purchasing the vehicle altogether.
- High fuel prices: In India fuel prices are very high due to the taxes imposed by the central and state governments to earn more revenue. The fuel prices fluctuate every day and put a burden on the consumer.
- High custom duty, service tax and excise duty: The tax system of India will always put an extra burden on the manufacturing units because they have to pay higher taxes to the central and state governments as per the tax regime. These taxes play a vital role while deciding the market price of the automobile and if it is higher then the consumer shall avoid purchasing the vehicle.

STRATEGY TO OVERCOME & DISPUTE RESOLUTION MECHANISM

Due to minimal business operations and lower liquidity crunch, many companies are on the verge of becoming insolvent and to avoid such situation Ministry of Finance's proposal to promulgate an ordinance to suspend insolvency proceedings against new defaulters for six months acted as a sigh of relief for every industry. Once the ordinance comes into force following Presidential assent then sections 7, 9, and 10 of the Insolvency & Bankruptcy

Code, 2016 which trigger insolvency proceedings against the defaulters will remain suspended for six months to one year that will stop companies from being forced into insolvency proceedings.

Based on the challenges and legal issues as discussed above, the companies may also opt for the following measures to avoid disputes:

1. In case of no registration of BS-IV vehicles, the company can take its vehicles back and change with BS-VI vehicles to avoid any litigation case. Since the said vehicle is banned by the Apex Court, any dispute regarding the same may attract a case against the company.
2. To avoid consumer litigation, the companies may extend the warranty period of the vehicles and the free and paid services of the customer. The companies may also issue and share guidelines along with preventive measures with the vehicle owners through whats app, SMS, and email. This will help them avoid any technical or mechanical problems. It also helps the company to build its relationship with the customer.
3. To avoid contractual disputes and litigation cases, the companies may arrange meetings with parties to discuss and settle the matter out of court to avoid litigation burden. Further, to avoid such conditions, the companies with mutual consent can review and amend the contract as per convenience and requirement to avoid any dispute for the smooth functioning of the business.
4. To avoid any labor law cases, the companies may cut the payment up to 30% of wages and salaries without terminating the employees of the company to overcome from financial burden. Companies can also opt for the other options regarding the payment to labor which is acceptable by both parties.

Furthermore, in our opinion this epidemic COVID-19 could be a big opportunity for Indian component manufacturers to grab business as the world plans to avoid trade relations with China and relocate its manufacturing units to some other countries. Therefore, the government should be more enticing to companies having their base in China and support the industry by giving tax rebates, soft loans, etc.

The companies can also opt to sell their stake to overcome the financial crisis. The companies can also start their new business networking and global business with suppliers further, the government should continue to push out the Electric Vehicles (EVs). However, the Ministry of Heavy Industry and Public Enterprises (Department of Heavy Industry) vide notification dated 13th March 2015 introduced a scheme and guideline for Faster Adoption and Manufacturing of Hybrid and Electric Vehicles in India the scheme is commonly known as FAME INDIA[2].

The Ministry of Heavy Industry and Public Enterprises (Department of Heavy Industry) again vide notification dated 21st June 2019 introduced the FAME INDIA – II scheme[3] which helps the manufacture, economy, and environment as well. As we know that post the pandemic phase, the economy will slow down and it affected the purchasing power of the consumers and especially in India it will be a hard competition for the automobile companies to sustain in the market.

CONCLUSION - Automobile Industry Amidst COVID 19

It is a good time and opportunity for automobile makers to come up with new plans for Electric Vehicles (EVs) in all segments like bikes, scooters, cars, and buses, etc. They must also come up with a plan to establish charging stations and good technology for batteries which can be easily changed in these EVs. These EVs can prove to be a better pocket-friendly option in

comparison to other vehicles and can also create new jobs to help the economy.

Considering the rule to follow social distancing, people are avoiding public transport and choosing their own vehicles to commute. In this new scenario, new technology with a pocket-friendly automobile would attract the consumer and help the industry to overcome financial stress.

Contributed By - Mirza Aslam Beg, Partner

& Praveen Pandey, Associate

King Stubb & Kasiva,

Advocates & Attorneys

Click Here to Get in Touch

New Delhi | Mumbai | Bangalore | Chennai | Hyderabad | Kochi

Tel: +91 11 41032969 | Email: info@ksandk.com