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Analysing developments impacting business

Continued relief for liner shipping industry: India extends exemption until July 2021

12 July 2018

On 4 July 2018, the Ministry of Corporate Affairs (MCA) extended the vessel sharing exemption applicable to the liner shipping industry from scrutiny under Section 3 of the Competition Act, 2002 (Exemption) for a further period of three years. The Exemption has been extended on an annual basis after its initial introduction in September 2012 with the last extension expiring on 19 June 2018.

The Exemption continues to apply to carriers of all nationalities, operating ships of any nationality from any Indian port provided such agreements exclude collusive practices involving fixing of prices, limitation of capacity or sales and the allocation of markets or customers.

All vessel sharing agreements (VSAs) are subject to monitoring by the Directorate General of Shipping, Ministry of Shipping, Government of India (DG Shipping). Further, the Exemption also requires persons responsible for operations of such ships in India to file copies of existing VSAs or VSAs proposed to be entered into during the subsistence of the Exemption period (i.e., 3 July 2021) along with other relevant documents with the DG Shipping within 30 days of the publication of notification in the Official Gazette, i.e. 4 July 2018, or within ten days of signing of such agreements, whichever is later.

Comment

VSAs allow a larger number of shipping companies (including smaller vessels) to participate in the shipping business through tie ups with larger shipping companies thereby encouraging competition. Globally, VSAs are the norm as most liner shipping companies render service under such agreements. If the Exemption had not been extended, VSAs would have been brought within the ambit and scope of the investigation of the Competition Commission resulting in penal consequences.

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