Grant Thornton

FICCI

Digital India: The new normal

Seeking additional government support for the IT & ITeS sector in tiding over COVID-19 crisis

September 2020

Contents

FICCI foreword

COVID-19 has dazed the foundation of human civilisation. It has not only impacted the safety and security of millions of souls across the world, but has also deeply affected the global economy.

However, the silver lining in this chaos is the massive shift from physical to digital, which has now become the new norm. Sectors, such as healthcare, logistics and education, have seen a tectonic shift towards digital platforms. However, even before coronavirus hit us, India's digital space was already surging exponentially, thanks to some excellent initiatives taken by Government of India (GOI). Over the past few years, Indian businesses have taken massive strides in adopting new-age technology innovations across sectors.

However, playing an important role, technology still contributed tremendously to safeguard our socio-economic environment during the COVID-19 crisis, which is an ongoing process, even after six months of witnessing the first case in India. What started as just work from home (WFH) has moved into a full-blown scenario with a hybrid workforce. Technology has stepped in to the rescue by providing unique solutions to everyday challenges. In a world that will be called 'post-COVID-19 era', we will see technology playing an even more crucial and enhanced role that will shape and reshape business operations and consumer behaviour for years to come. There is no going back, and the underlying theme of the technological transformation will revolve around creating business models that will survive in a 'less-contact' society.

During this difficult time, GOI has taken several supportive steps towards business continuation of the ICT sector of India while keeping public safety in mind. We hope that this report will lay the foundation of a future where India comes out as a winner in a post-COVID-19 era, and what we do now is important for what we will have tomorrow. We are hoping that this document will assist GOI in drafting its policies for the IT & ITeS sector, supporting the industry and catalysing growth.

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Grant Thornton foreword

A major contributor to the growth story for Indian economy has been the coming of age of the Indian IT industry in the last two decades. The industry not only contributes to ~7.5% of the country's GDP but also accounts for ~45% share in the services exports, while also generating 4.3 million in jobs. The ongoing COVID-19 pandemic has created significant opportunities, such as speeding up adoption of digital technologies in a matter of weeks, which would have normally happened in more than two years, also giving a boost to the telecom sector.

Having said that the industry is faced with unprecedented challenges such as high quality and uninterrupted WFH based delivery of services. According to a Grant Thornton survey, over 90% of IT companies believe revenue growth in FY 21 will be either flat or negative. Also, this pandemic is expected to last for months and year(s) and WFH will be the new normal, which companies will have to inevitably conform to. The survey observes that a large number of companies want to permanently shift a percentage of their workforce to remote work locations even after the lockdown is lifted. This indicates that in the long run, companies are looking at working models that are less capital intensive. In light of the above, the legal and regulatory framework in India must be supportive of WFH as a long-term objective, rather than a short-gap measure.

Major companies have adopted various IT solutions as a part of the business continuity plans (BCPs). There has also been a surge in the modes of digital payments, a volume of UPI transactions has increased when compared to ATM transactions. However, this dependency on IT solutions has also led to a significant increase in cyber crime cases, such as phishing and gateway security. The government has been active in blocking certain mobile applications and websites that pose a threat on the security.

The government has been very supportive of the IT industry so far and has emerged with various relief measures, particularly for the smaller IT firms. The government should look at incorporation of technology incubation centres in tier II cities as well. To sustain and boost the industry in these turbulent times, continued support of the government would be critical, whether it is through easier credit lines, tax breaks or relief in statutory dues, such as EPF, social security and health insurance. In addition, government support in terms of cash assistance, immediate clearance of refunds pending with the government, moving all Software Technology Parks of India (STPI) compliances online have also been requested.

Over the last couple of decades, India has become the preferred destination for investment for a large number of inbound as well as outbound MNCs. Therefore, the ask from the government, during these times, is to provide certain reliefs in the form of remote access and WFH policies so that the Indian IT sector can continue to enjoy the edge globally.

Grant Thornton International Business Report H1 2020 throws light on business strategies post COVID-19. As per the survey, India ranks first in its willingness to invest in technological advancements. Approximately, 57% of the respondents implemented home/remote working and or flexible working and almost 63% respondents state that they will focus more on use of technology and digital transformation.

With this document, Grant Thornton is hopeful that the recommendations and favourable policy modifications will go a long way in not just supporting the IT & ITeS sector in these critical times but also ensuring minimal negative impact to the economy in the medium to long term.

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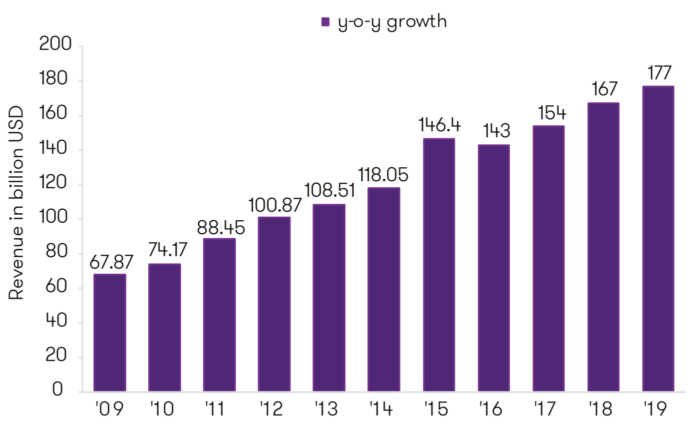
Sector overview

The IT & ITeS sector in India expanded to USD 177 billion in FY 2019 from USD 74 billion in FY 2010 – three to four times higher than the global IT-BPM growth. The revenue is estimated to reach USD 191 billion in FY2020 at 7.7% y-o-y growth and is expected that it will increase to USD 350 billion by 2025. The Indian IT & ITeS sector employed 205,000 new hires and had 884,000 digitally skilled talent in 2019.

Fast-paced growth

- Digital is one of the fastest-growing segments and now accounts for over 20% of the IT & ITeS sector exports. Revenue from the segment is expected to account for 38% of the forecasted USD 350 billion industry revenue by 2025.
- Exports from the sector increased to USD 137 billion in FY 2019, while domestic revenues (including hardware) advanced to USD 44 billion.
- The sector represents:
  - More than 55% share in the global outsourcing market
  - More than 45% share in Indian services export
- Cumulative foreign direct investment (FDI) in the computer software and hardware between April 2000 and March 2019 stood at USD 37.23 billion.
- The number of internet users in India is expected to cross 600 million by 2021, supported by investments in telecom infrastructure and fast adoption of digital technology.
- Leading Indian IT firms are diversifying their client offerings, such as blockchain and artificial intelligence (AI), using innovation hubs and R&D centres to create differentiated offerings.

Y-o-y growth



Fast facts

7.5%
Share in India's GDP

USD 181 billion
Size of the Indian IT & ITeS industry in 2018-19

10.5%
Expected average compound annual growth rate (CAGR) of IT services between 2018 and 2021

3.9 million
Number of employees; highest in the private sector

USD 44.91 billion
FDI inflow in computer software and hardware sector between April 2000 and March 2020

55%
India's market share in the global services sourcing business as of FY 2019

Pre-COVID-19: Key government policies to boost sector

GOI announced several sectoral and tax-related measures on digital schemes, artificial intelligence and tax benefits in the form of capital gains exemption in case of re-investment in computer/computer software to boost the IT & ITeS sector.

Ministry	Key initiatives/policies
Ministry of Electronics and Information Technology	• **Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA):** It was launched to make at least one person per eligible household digitally literate by March 2019. Various digital trainings have been provided to over 10.25 million people so far. • **Digital schemes:** Several digital schemes were launched to promote the four Es - Education, Employment, Entrepreneurship and Empowerment. • **National Policy on Software Products:** The Union Cabinet passed the policy in 2019 to develop India as a global hub for software products. • **IT as a Champion Services Sector:** Action plan is being developed for IT, which was identified as one of the Champion Services Sectors. The government also has set up a INR 5,000 crore (USD 745.82 million) fund for realising the potential of the Champion Services Sectors. • **Artificial intelligence:** In consequent budgets, the government has announced AI-focused initiatives. As stated in the interim Budget 2019-20, the government has plans to roll out an AI-focused national programme. This will impact all prominent IT companies, such as TCS, Infosys, Wipro and HCL, as well as other mid-cap and small-cap software firms. The programme will focus on skill and infrastructure development and its beneficiaries would be AI-driven start-ups. It was also stated that nine priority areas will be identified for the AI hubs across India. • **Digital villages:** The government has announced plans to establish one lakh digital villages in the next five years that will impact companies such as Reliance Jio, Bharti Airtel and Vodafone Idea, amongst other telecom and IT services companies. • **Digital North East Vision 2022:** This vision document provides a roadmap for utilising digital technologies to transform the lives of people of the northeast and instill a better livelihood for them[1].
Department of Space	**Space technology:** New Space India Limited (NSIL), a public sector enterprise, has been incorporated as a new commercial arm of the Department of Space. This enterprise will tap into the benefits of the R&D carried out by Indian Space Research Organisation (ISRO).
Ministry of Skill Development and Entrepreneurship	**Skill focus on new technology areas:** By implementing Kayakave Kailasa, the government will enable ~10 million youth to take up relevant skill training through the Pradhan Mantri Kaushal Vikas Yojana (PMKVY). It will include new-age skills such as AI, Internet of Things, big data, 3D printing, VR and robotics.
Ministry of Finance	• **Tax incentive for employment generation:** With an aim to extend this employment generation incentive across sectors, Section 80JJAA of the Income-tax Act, 1961 (IT Act) was amended. The amendment stated that the deduction under the said provision shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to INR 25,000 per month. • **Start-ups:** The government provided tax holiday to start-ups in 2016. The definition of an 'eligible start-up' inter-alia includes IT. • **Tax incentive for digital payments** - The government has stressed on the shift to digital payments by mandating certain digital modes of payment in various provisions of the IT Act. • **Capital gains exemption in case of reinvestment in computers or computer software:** Section 54GB of the IT Act required that a company should invest the proceeds in the purchase of new asset being new plant and machinery but did not include, inter-alia, computers or computer software. To boost start-ups engaged in IT where computers or computer software form the core asset base owing to nature of business activity, Section 54GB was recently amended. The definition of the expression "new asset" has been amended to include computers or computer software in case of technology driven start-ups, as certified by the Inter-Ministerial Board of Certification notified by the government in the official Gazette.

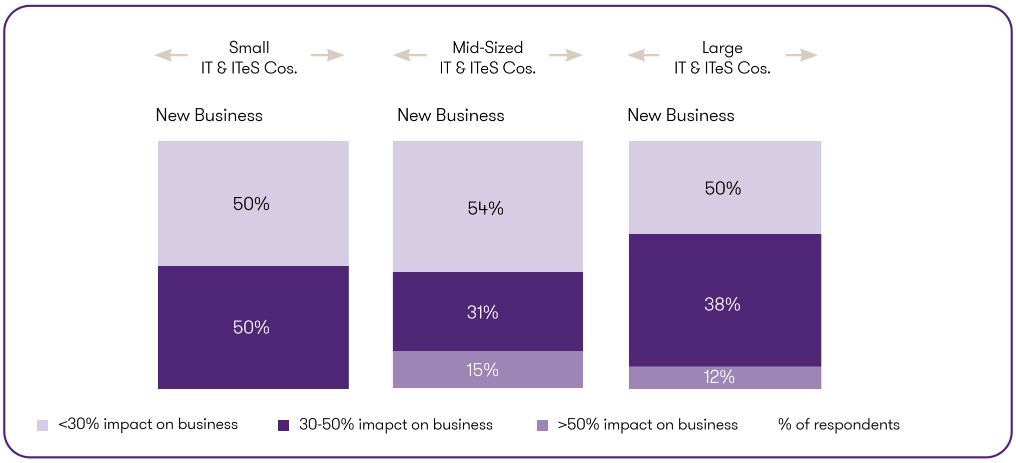
1. https://www.indianchamber.org/wp-content/uploads/2019/03/ITITES-Sector-Note-1.pdf

Impact of COVID-19 on IT & ITeS sector

Impact on current operations

The pandemic could disproportionately impact existing business for small IT & ITeS firms compared to mid-sized and large IT & ITeS companies in percentage terms, although impact on new business could be similar across different segments. Companies providing niche, specialised services are indicating neutral to positive outlook.

Impact on new business



Note: As per the Grant Thornton survey, impact on existing business has been evaluated based on occurrence of contract renegotiation while impact on new business has been assessed based on impact on new and proposed contracts.

Source: Grant Thornton Survey

Further, cash conservation is a key priority owing to the slowdown in business activity and delayed payments from clients, especially for tech start-ups, as investors become resistant to provide additional funding.

In India, the larger IT & ITeS companies appear to have achieved a rather successful transition to WFH, as they continue to service their clients through the lockdown, thus showcasing their robust technology enablement and focused workforce. However, sustained client delivery from WFH over a period of time is expected to pose challenges including the risks of cyber security and client data-privacy issues. This crisis also presents a unique opportunity to focus on software products and services, such as collaboration tools, telehealth, security, digital, cloud migration, big data and AI that are witnessing an increase in demand. The industry is also likely to eye M&A opportunities in future as companies will look to exit.

Further, tech start-ups backed by investors are also expected to face funding issues as investors and venture capital (VC) funds hold back on new investments in the short-term, in addition to the restrictions imposed on VC funds from certain countries in the new FDI policies.

Survey findings

- Majority of IT & ITeS companies (regardless of size) have the following asks from the government:
  - Easier credit lines
  - Tax breaks
  - Relief in statutory dues such as PF, social security and health insurance
- Small IT & ITeS companies also call for government support in the form of cash assistance, immediate clearance of refunds pending with government and moving of all STPI compliances online.
- Other government measures being propositioned by most IT & ITeS companies include provision of e-passes for select employees allowing free movement of skilled employees and easing the threshold for transfer pricing margin.

Relief measures and recommendations to GOI

Certain key relief measures already provided on account of relief from rental payments to small IT units, deferment in realisation of export proceeds has greatly benefited the IT sector. In order to further boost the sector, certain recommendations are being made to the government by the IT & ITeS sector during the COVID-19 pandemic.

Ministry	Key reliefs so far	Recommendations
Ministry of Electronics and Information Technology	• On 16 April 2020, the government announced that it will provide relief from payment of rental to the small IT units operating out of the Software Technology Parks of India (STPI). Most of these units are either tech MSMEs or start-ups. • **IT companies operating from special economic zones (SEZs):** Concession was provided to the companies to operate remotely until September 2020. • **Data Protection Bill:** The Bill proposed in December 2019 does not include current scenarios of remote working.	• Concessions to IT companies operating from SEZ to be made permanent considering WFH could be permanent or for an extended period for several companies and would also bring in a big cost arbitrage. • Government to revisit the proposed Bill to incorporate challenges of WFH, balance the regulatory repercussions based on the current challenges to manage data confidentiality.
Department of Telecommunications (DOT)	The department relaxed provisions of Other Service Providers (OSP) licensing enabling the IT & ITeS industry employees to WFH.	• Government should focus on improvement of telecom and broadband infrastructure in Tier II and Tier III cities. As WFH becomes the new normal, there is an increased focus on broadband connectivity. • The government should consider making significant investment from improving infrastructure to reduce mass movement from Tier II and III cities to metro and bring down concentrated carbon footprint contributions.
Ministry of Labour and Employment	Not applicable	• Flexible work hours should be extended to all companies. This will allow employees to balance their personal and professional lives. Employer/principal employer liabilities need to be reviewed to align with the new normal of WFH environment. Revision to be made to the definition of work hours. Employees may prefer flexibility. Employer to be allowed to track the excess hours based on output and records to be retained in digital format. • Labour codes to be revised to incorporate new ways of tracking leave and attendance. The government should consider removing physical form filings and display requirements. Enable electronic mode of communication of compliance of requisite laws. Rationalise and simplify maintaining the record in digital format.
Ministry of Power	Not applicable	• The government should consider a sizeable investment to ensure uninterrupted power supply and minimal outages to the residential areas of metros and Tier II and Tier III cities. • The government should also consider incentivising purchase of power back-up devices for uninterrupted login time. The government and industries could consider developing shared workspace in the Tier II and Tier III cities to enable hiring across cities and reducing salary cost for industry.

Ministry	Key reliefs so far	Recommendations
Ministry of Finance	• The Reserve Bank of India (RBI) extended the realisation period of export proceeds from nine months to 15 months from date of export, for exports made until 31 July 2020. The measure allows IT & ITeS companies enough time to realise revenue from COVID-19 affected countries and provides greater flexibility in negotiating future export contracts with clients abroad. • The Ministry of Finance has extended timelines for filing of return, due dates for payment of taxes, TDS compliances and relief under the Vivad se Vishwas scheme. The date for commencement of operation for the units operating from SEZs (which have received necessary approval by 31 March 2020) for the purpose of claiming tax deduction under Section 10AA of the IT Act has been extended to 30 September 2020. Various central ministries have issued advisories relating to compliances under several legislations, to put in abeyance or defer timelines for regulatory compliances.[2]	Certain tax and regulatory measures are recommended which are detailed in the next section.

2. https://www.nasscom.in/sites/default/files/corona-files/20200324_Advisory_MEITY_0.pdf

Tax and regulatory recommendations (direct and indirect tax)

Issues	Recommendations
Direct tax	
Tax exemption to IT units operating from SEZs: Section 10AA of the IT Act provided exemption to SEZ units engaged in manufacture of goods or article or provision of service. The exemption is available at the rate of 100% of export profit for first five years, 50% of export profit for the next five years and lower than 50% of export profit or the amount credited to a reserve account for the next five years.	This exemption is recommended to be continued to regain the dominance of the IT sector in the recovery phase post-COVID-19. This would incentivise innovation and development in new-age technologies, lead to capital formation for productive use, generate employment and push infrastructure.
Weighted deduction for in-house R&D expenditure: Section 35 (2AB) of the IT Act provides for weighted deduction of 200% for in-house R&D expenditure. The Finance Act, 2016 reduced the percentage of deduction to 150% from 1 April 2017 to 31 March 2020 and thereafter 100%.	It is recommended to retain the weighted deduction of 150% in the recovery phase post-COVID-19.
Investment allowance for capital expenditure: Section 32AC of the IT Act provided for investment allowance for new capital expenditure incurred in the business. This provision is currently not in force.	Considering that IT firms would be required to incur capital expenditure to allow alternative IT infrastructure for Business Continuity Plans (BCP), investment allowance should be extended for any expenditure incurred in plant and machinery after 1 March 2020. The government must consider extending this to two more years considering capital formation will be imperative in the recovery phase. This will also give a much-needed boost to manufacturers of capex equipment.
Long term capital gains tax and Buyback tax: Recently the exemption on log term capital gains on sale of equity shares was removed, leading to taxation of gains on sale of equity shares beyond a period of 12 months. Also, the buyback tax was recently extended to listed companies as well.	In order to boost the sentiment of financial markets, the tax on long term capital gains on sale of shares and the buy back tax payable by listed companies should be scrapped. This could be a temporary measure of two years. This would allow augmenting capital from cash rich resources to to finance expansion of IT sector needed to deal with covid challenges.
Incentive for employment generation: Section 80JJAA of the IT Act allows a deduction for the employment of new workmen with a salary up to INR 25,000 per month. One of the eligibility conditions is that the total employees at the end of the year should be more than the employees at the beginning of the year.	As IT & ITeS firms have not been able to onboard new employees for past four months from March 2020, look through date for assessing the eligibility, i.e. whether there is a net increase in the number of employees as at the year-end may be taken as 30 September 2020 (or the date of filing the return for FY 2019-20, whichever is earlier). This would ensure that there is no decrease in employment in the recovery phase.
Business expenditure on providing WFH infrastructure: At present, there is no specification of expenses incurred by the employer on providing the infrastructure for WFH to be treated as business expense.	All expenses incurred by an employer in the form of broadband reimbursement and furniture set-up cost, i.e. setting up of home office by employees, should be treated as business expenditure and not as benefits/perquisites in the hand of employees. Cost of printers, scanners, earphones not to be taxed. The current provisions are ambiguous on the treatment of such expenditure.
Minimum Alternate Tax (MAT): It is currently 18.5%.	MAT rate should be reduced to 10%. This would allow the benefit of investment allowance and other deductions to flow through in cashflow terms.
Health and Education Cess: It is currently 4% on the amount of income-tax plus surcharge.	Cess collected and unutilised as of now and the levy for the next two years should be appropriated as COVID-19 cess. No new cess or increase in tax should be considered for the next two years.
Enhanced surcharge: The government has increased the surcharge levied on top of the applicable income tax from 15% to 25% for those with taxable incomes between INR 2-5 crore (USD 267,570–USD 668,930), and to 37% for those earning more than INR 5 crore (USD 668,930), taking the effective tax rate for them to 39% and 42.7%, respectively.	To boost consumption from the HNIs, there is a need to review the super-rich tax (surcharge increase). Instead, make it mandatory for super-rich individuals to contribute to CSR (2-3% of the total income) much like the corporate sector. They can be allowed to contribute to the CSR funds of the employer or CSR fund set up by the central government (for self-employed professionals).

Issues	Recommendations
Indirect taxes (Goods and Services Tax)	
GST rate rationalisation: Most IT-related items fall under the 18% bracket.	The GST rate should be reduced by 5% (2.5% from central tax and 2.5% from state tax). This can be applied to all items falling under 18% rate.
Reverse charge on imports: GST is required to be paid under reverse charge on import of certain services in cash that impacts working capital.	Suspension on payment of GST under reverse charge on imports for export-oriented industries should be considered to tide over the working capital concerns. Alternatively, accumulated input credit may be allowed to discharge the reverse charge liability. Suspension on payment of GST under reverse charge on imports for export-oriented industries may help in the working capital blockage issue. Accumulated input credit may also be allowed to discharge the reverse charge liability so that the problem of refund of input credit and working capital blockage can be addressed.
Intermediary services: Since inception, determination of intermediary services has been area of litigation.	To resolve the ambiguity, the government had issued a clarification, which was subsequently withdrawn. The revised clarification, which is still awaited, should be issued at the earliest.
GST rates on software: Transfer of Intellectual Property Rights (other than software) has been classified under the tax category of 12% whereas software is taxed at the rate of 18%.	Software should also be included in the 12% tax slab as it will lead to rate rationalisation and ease of compliance.
Change in registration requirements for non-SEZ units: GST registration is required even for non-SEZ units engaged exclusively in export of services.	It is recommended to provide exemption from obtaining registrations for non-SEZ units which are involved in the export of services. This will ease compliance burden as well as related costs for these units.
Scope of input tax : Definition of 'input tax' as given in Section 2(62) of the CGST Act, as it includes all types of GST paid on supply of goods or services. While all inputs, capital goods and input services in relation to business are covered, restriction on availment of credits continues, particularly for input services under Section 17 of the CGST Act. Entities only incur expenditures in the course of furtherance of business and therefore, GST paid on procurement of goods and services should be allowed. Also, certain input services are critical from operational perspective. For example, the employees working in IT & ITeS sector are required to work round the clock. Thus, the business entities provide transportation assistance to its employees during such odd working hours. The rent a cab services availed by the IT & ITeS sector thus become critical to the seamless functioning of the industry and therefore, denial of credit would result in financial hardship to the industry.	It is recommended that credit be allowed of GST paid on all procurements made in the course of business. For example, GST paid on the input services such as rent a cab, life and health insurance, outdoor catering should be allowed.
Use of assets of employer by employee: Sl no 4(b) of Schedule II of the CGST Act provides that where goods held for the purpose of the business are put to any private use or even made available for private use, whether or not for a consideration, such usage would result in a supply of services and a GST levy. For instance, if a company provides a motor vehicle to an employee for his use (which is presumed to be both for official and private), the usage may be considered as a supply of service to the employee. Therefore, GST may be levied on such supply.	It should be clarified that allowing of use of assets should be treated as part of employment arrangement which should not be treated as supply liable to GST.

Issues	Recommendations
Indirect taxes (customs and other laws)	
Calculation of Net Foreign Earnings for SEZ: Currently for the computation of value of Net Foreign Exchange Earnings (NFE) the value of exports are considered at each SEZ level.	It is recommended that the NFE requirement in case of SEZ units should be aggregated at company level rather than the SEZ level. This will enable ease to the entity in fulfilling its NFE requirement
Customs exemption in case of SEZs choosing to de-notify: Applicable customs duty is required to be paid on imported capital goods at the time of de-bonding.	It is recommended that a one-time customs duty exemption should be granted for fixed and movable assets in SEZs at the time of de-bonding till 31 March 2021. This will ease the financial burden on companies.
Exemption from physical inspection in case of de-bonding: Physical inspection of equipment is required at the time of de-bonding process.	It is recommended that an exemption be considered from one-time physical inspection of equipment before de-bonding till 31 March 2021. This will ensure ease from procedural compliances as also expedite the de-bonding process.

Conclusion

Path ahead

COVID-19 has generated unprecedented situations that demands an urgent and quick response from the government, to maintain the competitiveness of the IT & ITeS sector in a global context. Though the IT industry has been quick in mobilising the BCPs with adequate support from the government on various fronts, the ask from the government is on amendment of certain laws or policy modifications that boost the IT sector in the right direction.

This crisis could be converted into a big opportunity (Y2020 Moment) for the Indian IT & ITeS industry to push digital transformation agenda globally. Majority of companies now realise that the pandemic has made remote working the new norm. As the world moves to a digital work-world, Indian IT & ITeS companies have the opportunity to seize this moment to upscale the digital workforce, support clients in a secure and seamless basis and shape the digital way of working with its clients. This will require suitable changes in the existing laws and certain favourable policy modifications, which will go a long way in catalysing the IT & ITeS sector in these unprecedented times.

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Established in 1927, FICCI is the largest and oldest apex business organisation in India. Its history is closely interwoven with India's struggle for independence, its industrialisation, and its emergence as one of the most rapidly growing global economies.

A non-government, not-for-profit organisation, FICCI is the voice of India's business and industry. From influencing policy to encouraging debate, engaging with policy makers and civil society, FICCI articulates the views and concerns of industry. It serves its members from the Indian private and public corporate sectors and multinational companies, drawing its strength from diverse regional chambers of commerce and industry across states, reaching out to over 2,50,000 companies.

FICCI provides a platform for networking and consensus building within and across sectors and is the first port of call for Indian industry, policy makers and the international business community.

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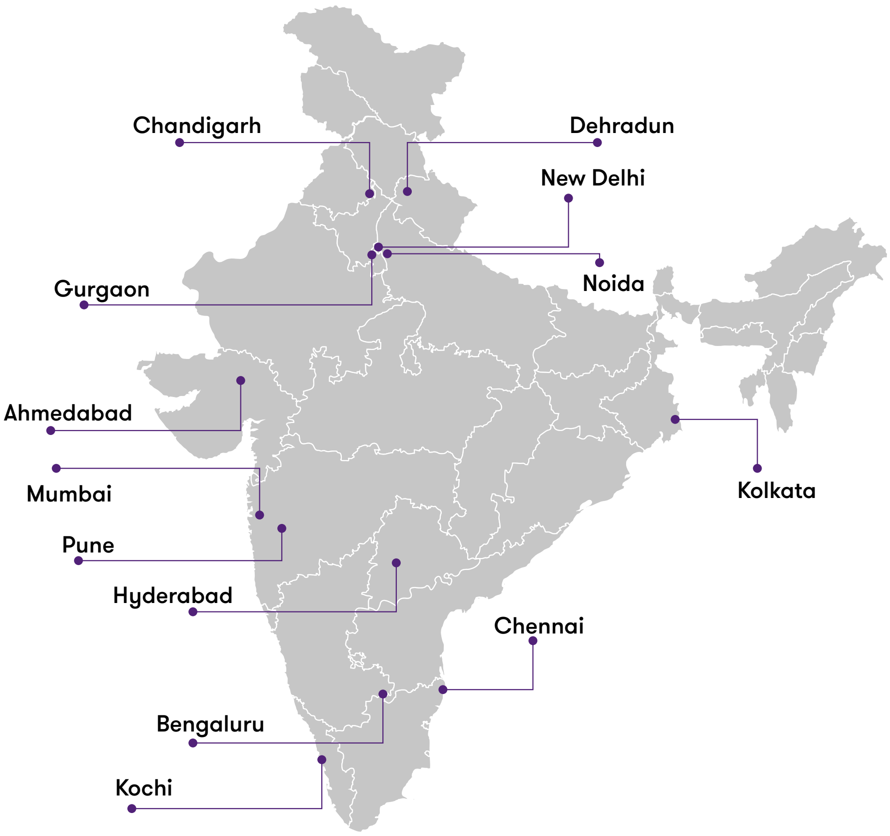

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