



**MINISTRY OF FINANCE, ECONOMIC PLANNING
AND DEVELOPMENT**

Government Centre, Port Louis, Mauritius

**COMMUNIQUE ON SUPREME COURT JUDGEMENT
ON APPLICATION FOR STAY**

In the case of Business Mauritius and others

v/s

The Director General, The Mauritius Revenue Authority and others

1. On Monday 7th of December 2020, the Chief Justice A. Caunhye and the Judge D. Chan Kan Cheong declined the grant of stay of Business Mauritius.
2. In its stay application, Business Mauritius had asked the Court that pending the determination of the main cases, to order that the MRA credits the CSG collected from employers and participants to the National Pension Fund instead of the Consolidated Fund.
3. In its Judgement, the Court highlighted that the contention of irreparable harm by Business Mauritius has not been established and that there is at this juncture, no serious harm, stemming from the violation of any of constitutional rights which require the immediate suspension of section 30B(4) of the Act pending the determination of the main cases.
4. The Court also highlighted that any of the risks apprehended by Business Mauritius and its co-applicants can be averted in the present circumstances without any interference with the law.
5. The Court acknowledged and highlighted the averments of the Ministry of Finance, Economic Planning and Development in its affidavit on the 24th of November 2020.

6. In the said affidavit, it was clearly spelt out that the operation and management of the Consolidated Fund is secured by the Constitution, and that all contributions collected by the MRA are being credited to the Consolidated Fund under a specific item, namely "Item 12110001 Employee Contribution under Pension Scheme".

7. The Court further acknowledged the difference between the Consolidated Fund and the NPF, in their ability to meet liabilities. The Consolidated Fund must always have sufficient cash inflows to meet its cash outflows and can never fail to meet its cash payments, whilst the NPF can only meet its liabilities from its revenue or by sale of its assets, which means that its ability to meet its liabilities is finite in time.

8. Based on the above, the Court thus declined to grant the application for stay which was asked for by Business Mauritius.

9. It further issued interim orders to ensure that, the contributions collected by the MRA continue to be credited in the Consolidated Fund under item 12110001: Employee Contribution under Pension Scheme as is already the case, and the normal practice for all lines of items of revenue and expenditure for the Government or under any alternative item specifically created for that purpose.

10. The Court further ordered that sufficient funds be maintained to the extent that may be required to compensate the applicants in conformity with a judgment of the Court, if any, in favour of any of the applicants.

11. The Ministry of Finance, Economic Planning and Development wishes to point out that funds collected by the MRA are being credited to the Consolidated Fund under item 12110001: Employee Contribution under Pension Scheme since the introduction of the CSG as highlighted by the Supreme Court in its judgement.

08 December 2020