Companies Fresh Start Scheme 2020

End Date: September 30,2020

Reasons for the scheme

Companies Act requires companies to make annual statutory compliance by filing forms, returns, documents etc. within the prescribed time limit. Failure to do so results in gross non-compliance, which may result into heavy penalty and prosecution against both company and its officers. Thus Companies are required to file the requisite forms along with additional fee of Rs 100/day for such delay.

CFSS-2020

Various representations were made to the Ministry to enable, defaulting companies to complete pending compliances by filing necessary documents. Hence, as part of Government's constant efforts to promote ease of doing business the Ministry of Corporate Affairs introduced:  Companies Fresh Start Scheme, 2020, vide General Circular No. 12/2020 dated March 30, 2020.

Salient Features of the Scheme

**Duration:**

The scheme is can be availed between **April 01, 2020 to September 30, 2020**.

**Nature:**

One-time condonation of delay in filing statutorily required documents with the Registrar.

**Applicability:**

The scheme shall be applicable to all “Defaulting Companies” as defined under the Companies Act, 2013 and which has made a default in filing any of the documents, statements, returns including annual statutory documents on MCA registry. Defaulting Foreign & NIDHI Companies can also avail this scheme.

**Manner of Payment of fees:**

•Statutory Filing Fees as per section 403 of Companies Act & Companies (Registration Offices & Fees) Rules, 2014.

**And**

•Additional fees NIL

**Immunity from prosecution:**

Defaulting Companies, who have filed their pending documents till 30th September 2020 and made good the default, shall not be subjected to prosecution or proceedings by Registrar for such delay in filing of the documents.

**Note:** Any other consequential proceedings, including any proceedings involving interests of any shareholder or any other person qua the company or its directors or key managerial personnel would not be covered by such Immunity.

**Modus Operandi for availing benefit:**

* The Scheme requires defaulting companies to clear all their pending filings until September, 2020 by paying normal fee on the same.
* Defaulting Company shall withdraw all appeals filed against any prosecution/proceedings for imposing penalty of any statutory filings & furnish proof of such withdrawal along with application
* Application for obtaining immunity under CFSS, 2020 has to be made by filing e- Form CFSS- 2020, within 6 months from the closure of the Scheme (i.e. by March 30, 2021).
* As per the draft form and draft immunity certificate, attached to the Circular, SRNs of e-forms against which immunity is to be sought, has to be mentioned.
* Based on which an immunity certificate in respect of the documents filed, shall be issued by the designated authority

**Other Relief:**

Cases where penalties are imposed by an adjudicating officer and no appeal has been filed by the concerned company before the Regional Director then an additional 120 days from the last day is given for filing appeal before the concerned Regional Directors if only the last day for filing the return falls between 1st March 2020 and 31st May 2020. Also, during such additional period, prosecution for non-compliance of order of the Adjudicating authority shall not be initiated against the company/its officers.

**Forms Covered:**

The MCA has uploaded a list of 76 forms (including for companies and LLPs) for which the benefit of the Scheme can be availed. This includes forms related to all IEPF forms, annual forms, BEN-2, DPT-3, PAS-3, INC-22A, MGT-14.

**List of 76 Forms can be found here**: http://www.mca.gov.in/Ministry/pdf/CFSS2020\_02042020.pdf

**Exceptions:**

This scheme shall not apply to Companies:

* who have received a final notice from Ministry for Striking off name u/s 248 of the Companies Act, 2013,
* who have filed STK 2 for strike off by Company,
* who have filed for obtaining Status as Dormant u/s 455 of Companies Act, 2013,
* which have amalgamated under a scheme of arrangement or compromise under the act,
* Vanishing Companies.
* Filing not done due to management disputes and wherein matter is pending before any Court of law or Tribunal.
* Applying for SH-7 or any charge related forms like CHG-1/4/8/9.

**Benefits for Inactive Companies:**

A defaulting inactive company can, while filing due documents under CFSS, simultaneously apply for either of the following:

1. to become a dormant company by filing e-Form MSC-1;

**or**

1. to get its name struck off by filing e-form STK -2

Otherwise, an inactive company cannot file for strike off

**Failure to avail this scheme**

In case the forms due and pending for filing are not filed within time limit of the scheme, such companies, it’s officers, forms will be subject to additional fees, penalty, prosecution as applicable pursuant to the provisions of Companies Act, 2013.

Where immunity certificate is not obtained by filing CFSS-2020, benefit of the Scheme cannot be availed and probably such companies will be subjected to payment of additional fees, penalty, and prosecution, if any, as may have been waived.