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Amendment to Companies (Acceptance of Deposits) Rules, 2014

Ministry of Corporate Affairs vide its notification dated 11th May, 2017, in exercise of the powers conferred by section 73 and 76 read with sub-section (1) and sub-section (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Acceptance of Deposits) Rules, 2014 namely:-



1(1) These rules may be called the Companies (Acceptance of Deposits) Amendment Rules, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the companies (Acceptance of Deposits) Rules, 2014 (hereinafter referred to as the principal rules)-

(a) in rule 2, in sub-rule (1), in clause (c), in sub clause (xviii), after the words "Domestic. Venture Capital Funds" the words", Infrastructure Investment Trusts" shall be inserted.

(b) in rule 5 in sub-rule (1), for the proviso, the following proviso shall be substituted, namely:-

"Provided that the Companies may accept deposits without deposit Insurance contract till the 31st March, 2018 of till the availability of deposit insurance product, whichever is earlier".

Limited Liability Partnership (Amendment) Rules, 2017

Ministry of Corporate Affairs vide its notification no G.S.R. 470 (E)

dated 16th May, 2017 In exercise of the powers conferred by sub-sections (1) and (2) of section 79 of the Limited Liability Partnership Act, 2008 (6 of 2009), the Central Government hereby makes the following rules further to amend the Limited Liability Partnership Rules, 2009, namely:—

1. (1) These rules may be called the Limited Liability Partnership (Amendment) Rules, 2017.

(2) They shall come into force with effect from 20th May, 2017.

2. In the Limited Liability Partnership Rules, 2009 (herein after referred to as the Principal Rules), in rule 37, after sub-rule (1), the following sub-rule shall be inserted, namely:—

“(1A) The limited liability partnership referred to in clause (b) of sub-rule (1) of rule 37 shall,—

(I) file overdue returns in Form 8 and Form 11 up to the end of the financial year in which the limited liability partnership ceased to carry on its business or commercial operations before filing Form 24;

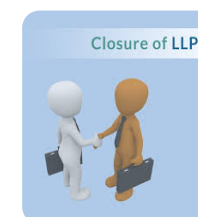
(II) enclose along with Form 24,—

(a) a statement of account disclosing nil assets and nil liabilities, certified by a Chartered Accountant in practice made up to a date not earlier than thirty days of the date of filing of Form 24;

(b) an affidavit signed by the designated partners, either jointly or severally, to the effect,—

(i) that the Limited Liability Partnership has not commenced business or where it commenced business, it ceased to carry on such business from(dd/mm/yyyy);

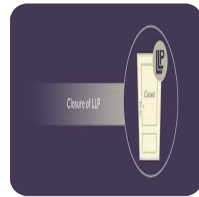
(ii) that the limited liability partnership has no liabilities and indemnifying any liability that may arise even after striking off its name from the



Register;

(iii) that the Limited Liability Partnership has not opened any Bank Account and where it had opened, the said bank account has since been closed together with certificate(s) or statement from the respective bank demonstrating closure of Bank Account;

(iv) that the Limited Liability Partnership has not filed any Income-tax return where it has not carried on any business since its incorporation, if applicable.



(c) a copy of the acknowledgement of the latest Income-tax return filed under the Income-tax Act, 1961 (43 of 1961) and the rules made thereunder for the time being in force, where the limited liability partnership has carried out any business and has filed such return.

(d) copy of the initial limited liability partnership agreement, if entered into and not filed, along with changes thereof in cases where the Limited Liability Partnership has not commenced business or commercial operations since its incorporation.

Explanation.—The date of cessation of commercial operation is the date from which the Limited Liability Partnership ceased to carry on its revenue generating business and the transactions such as receipt of money from debtors or payment of money to creditors, subsequent to such cessation will not form part of revenue generating business.”

Transfer of shares to IEPF Authority

Ministry of Corporate Affairs vide its general Circular No 05/2017 dated 16th May, 2017, stated that General Circular No. 03/2017 dated 27.04.2017 regarding “Transfer of Shares to IEPF Authority”

stands withdrawn and fresh instructions on the matter would be issued in due course of time.

Rectification of name of the Company by Central Government

Ministry of Corporate Affairs vide its general Circular No 04/2017 dated 16th May, 2017, stated that in a representation received from Regional Director, Mumbai seeking clarification as to whether Regional Directors can entertain, fresh applications u/s 16 of the Companies Act, 2013 in respect of applications which were earlier rejected by them under the Companies Act, 1956 on the ground of being time –barred as the prescribed period of twelve months had completed (under Section 22 (1) (ii)(b) of the Companies Act, 1956). It was expressed that Section 16 of the Companies Act, 2013 does not specify any time limitation.

2. The matter has been examined in consultation with D/o Legal Affairs and it is clarified that applications that were rejected by the Regional Directors under Section 22 (1) (ii)(b) of the Companies Act, 1956, on the ground that such applications were made after the requisite period of twelve months specified therein, cannot apply afresh under section 16 (1) (a) of the Companies Act, 2013, as the extinguished limitation cannot be considered to be reviewed even if no limitation period has been prescribed/laid down in the said section.



Real Estate Act

The Real Estate Act which aims to protect the interests of homebuyers by ensuring transparency has come into effect. The

Ministry of Housing and Urban Poverty Alleviation (HUPA) has asked all the states and Union Territories to implement the Act with letter and spirit. Since land is a state subject, real estate sector comes within the ambit of the state governments.

The Real Estate (Regulation and Development) Bill, 2016 was passed by Parliament in March last year. Partially, the act came into force on 1 May last year with 59 of 92 notified sections of the act coming into force. The remaining provisions have come into the force now. Already the act has been notified by 13 states and Union Territories including Andhra Pradesh, Uttar Pradesh, Bihar, Gujarat, Delhi, Daman and Diu.



Provisions

Buyers and developers of real estate property can seek relief by approaching Real Estate Regulatory Authorities against violation of the contractual obligations and other provisions of the Act.

The act provides for the mandatory registration of projects and real estate agents.

The act mandates depositing 70% of the funds collected from buyers in a separate bank account for construction of the project. The funds could be withdrawn only for construction purposes.

The act prescribes penalty on developers if the project is delayed. The project developers are required to disclose the project details on the website of the regulator and need to provide quarterly updates on construction progress.

Under the act, the Regulatory authorities are required to dispose of complaints in 60 days and Appellate Tribunals will be required to adjudicate cases in 60 days.

Significance

The act will ensure transparency and accountability in the real estate sector. It will enhance the consumer confidence and will benefit the whole sector. It will help to attract more investments into the real estate sector and may also open gates for FDI. This act will aid in the effective implementation of projects such as Housing for All by 2020 and Smart City

The Employee's Compensation (Amendment) Act, 2017

The Central Government has notified the Employee's Compensation (Amendment) Act, 2017.

In the Employee's Compensation Act, 1923 (hereinafter referred to as the principal Act) new Rule 17A has been inserted:



“Every employer shall immediately at the time of employment of an employee, inform the employee of his rights to compensation under this Act, in writing as well as through electronic means, in English or Hindi or in the official language of the area of employment, as may be understood by the employee”.

Further, penalties for offences under the Act have been revised from maximum five thousand rupees to not less than fifty thousand rupees but which may extend to one lakh rupees.

The Central Government hereby appoints the 15th May, 2017, as the date on which the said Act shall come into force.

Practitioners not to use prefixes like Mr/ Ms/ Mrs/ M/s in the title of legal proceedings

The Bombay High Court has issued a circular directing the practitioners not to use prefixes like Mr/ Ms/ Mrs/ M/s in the title of legal proceedings. The circular, is in pursuance of the observation by Justice GS Patel while hearing an arbitration case, that for companies, both private limited and public – practitioners are habituated to affixing the abbreviation 'M/s' before the name of the entity, which is completely incorrect. The judge had observed that a company is not a firm, and the prefix is only ever used for a firm and that in the title of legal proceedings, no prefixes are ever to be permitted, and, for that matter, prefixes 'Mr/ Ms/ Mrs' are also not to be used. The Section Officer concerned and clerk of centralised filing and lodging department, while scrutinising the pleadings, shall verify the compliance of the aforementioned directions scrupulously.



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