



Inside this edition

- Amendment in Companies (Registration Offices and Fees) Rules, 2014.
- Amendment in Schedule II of Companies Act, 2013.
- Speedy Court for the purpose of providing speedy trial of cases.
- Restoration of Company's name to the register maintained by the Registrar of Companies.

Amendment in Companies (Registration Offices and Fees) Rules, 2014

Ministry of Corporate Affairs vide its notification no G.S.R. 1049(E) dated 7th November, 2016, in exercise of the powers conferred by Sections 396, 398, 399, 403, 404 read with sub-sections (1) and (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 (Registration Offices and Fees) Rules, 2014, namely:-



- (i) These rules may be called the Companies (Registration Offices and Fees) Second Amendment Rules, 2016.

- (ii) They shall come into force from the date of publication in the Official Gazette.

- In the Companies (Registration Offices and Fees) Rules, 2014, (herein after refer to as the principal rules), in the principle rules, in rule 8, in sub-rule (12), in the clause (b) for sub-clause (iv), the following shall be substituted, namely:-

“(iv) AOC-4 certification by the Chartered Accountant or the Company Secretary or as the case may be by the Cost Accountant, in whole-time practice.”

Earlier in the Companies (Registration Offices and Fees) Rules, 2014, (herein after refer to as the principal rules), in the principle rules, in rule 8, in sub-rule (12), in the clause (b) for sub-clause (iv) mentioned (iv) AOC-4 certification by a Chartered Accountant in whole-time practice.

- In the principal rules, in the Annexure, in item II, for sub-item(vi), the following sub-items shall be substituted, namely:-

For Application made	Other than OPCs and Small Companies	OPC and Small Companies
“(vi) For allotment of Director Identification Number (DIN) under section 153 of the Act	500	500
(vii) For surrender of Director Identification Number under rule 11(f) of the Companies (Appointment and Qualification of Directors) Rules 2014	1000	1000

Earlier the fees was applicable on the basis of the amount of nominal share capital in case of company having share capital and secondly on company not having share capital.

Amendment in Schedule II of Companies Act, 2013

Ministry of Corporate Affairs vide its notification no G.S.R. 1075(E) dated 17th November, 2016, in exercise of the powers conferred by sub-section (1) of Section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following further amendments to amend the Schedule II to the said Act, namely:-

SCHEDULE I
SCHEDULE II (amendments
incorporated)
SCHEDULE III
SCHEDULE IV
SCHEDULE V
SCHEDULE VI
SCHEDULE VII

SCHEDULE VIII

- In the Companies Act, 2013, in Schedule II, under Part 'A', in para 3, in sub-paragraph (ii), for the brackets, letters and words starting with "(ii) For intangible" and ending with the words "force shall apply", the following brackets, letters and words shall be substituted, namely:-

"(ii) For intangible assets, the relevant Indian Accounting Standards (Ind AS) shall apply. Where a company is not required to comply with the Indian Accounting Standards (Ind AS), it shall comply with relevant Accounting Standards under Companies (Accounting Standards) Rules, 2006."

- This notification shall be applicable for accounting period commencing on or after 01st April, 2016.

Special Court for the purpose of providing speedy trial of cases

Ministry of Corporate Affairs vide its notification S.O. 3464 (E) dated 17th November, 2016, in exercise of the powers conferred by sub-section 435 of the Companies Act, 2013 (18 of 2013), the Central Government, with the concurrence of the Chief Justice of the High Court of Meghalaya, hereby designates the following Court as Special Court for the purpose of providing speedy trial of offences punishable with imprisonment of two years or more under the Companies Act, 2013, namely:-



S.No	Existing Court	Jurisdiction as Special Court
1	Court of District and Sessions Judge, Shillong	State of Meghalaya

Restoration of the Company's name to the register maintained by the Registrar of Companies

ASCOT SHOES PRIVATE LIMITED - PETITIONER

VS

REGISTRAR OF COMPANIES – RESPONDENT

Judgement Dated: 29TH July, 2016

The High Court of Bombay exercised the jurisdiction as Special Court in respective case.

This petition has been filed by Ascot Shoes Private Limited (hereinafter known as the "petitioner") under Section 560(6) of the Companies Act, 1956 praying for restoration of its name in the register of companies maintained by the Registrar of Companies.

The petitioner was incorporated with the Registrar of Companies, NCT of Delhi & Haryana (hereinafter called the "respondent") as a company limited by shares on 23.04.1986 vide Certificate of Incorporation No. 23985 of 86-87 with the object of carrying on the business, inter alia, of manufacture, import, export, purchase, sell, process, design and otherwise deal in sports and other shoes, toys, casual apparels and manufacture, import, export, processing and developing of polyprothelene, P.V.C. plastics, adhesive, synthetic resins and compounds, rubbers, rexines, intermediates and compositions and by-products thereof. Presently, the registered office of the petitioner is stated to be situated at 823, Vikasdeep Building, Laxmi Nagar, District Centre, Delhi- 110092.



The respondent initiated the proceedings under S.560 of the Companies Act, 1956 to strike the name of the petitioner off the register due to defaults in statutory compliances, namely, non-filing of Annual Returns and Balance Sheets after 2002. It has been submitted on behalf of the respondent that procedure under S.560 was duly followed, with notices/letter as required under S.560(1) and S.560(3) sent at the address available with the registrar as the registered office address of the petitioner. It is further submitted that notice under Section 560(5) for striking off the name of the petitioner from the register maintained by the respondent was given and the same was published in the Official Gazette on 26.04.2008 mentioning the petitioner-company's name at Serial no.1291.



The petitioner has, on the other hand, submitted that it has been an active company and carrying on its business since its incorporation. In support of this statement, the petitioner has relied on certified copy of its annual returns and balance sheets from the year 2003, copies of all of which are annexed with the petition.

The petitioner states that it came to the notice of the company that the name of the company has been struck off under section 560(5) only recently from portal of Ministry of Corporate affairs. Further, it is submitted that the petitioner company has been trying to maintain all its requisite documents as per the provisions of the companies act, as applicable to it but owing to the inadvertent and unavoidable conditions, the statutory documents as required under the law could not be filed with concerned Registrar of Companies in time.

The petitioner also submits that the petitioner company owns a property bearing number Flat no. 4, First Floor, Jaiji Mansion- 41 Mere Weather Road, B.K. Boman Behram Marg, Mumbai 400039, which was used by one of the directors of the petitioner company for his own residence and that the said director intends to vacate the said property of the petitioner company and now the same can be let out, therefore the petitioner company is intending to enter into a lease deed for the purpose of letting out the said property on lease, which can fetch a rent of ₹ 1,25,000/-,(Rupees One Lac Twenty Five Thousand Only) to the petitioner company, which the petitioner company would use towards discharging its outstanding liabilities to the tune of ₹ 37,53,704/- as on 31.03.2014.

It is further stated by the petitioner that it did not receive any notices/letters/show-cause notices as required under Section 560(1) and (2) of the Companies Act, 1956, nor was it afforded any opportunity of being heard before action under S.560(5) was taken by the respondent. The petitioner also averred that upon inspection of official records of the petitioner-company carried out by its authorised representative, no documents pertaining to S.560 were found on the record. It is further averred that no documents evidencing the basis on which the respondent came to the conclusion that the petitioner-company was not carrying on its business was either provided to the petitioner or was available on the records maintained with the respondent.



It has been averred on behalf of the respondent that though the

notices/letters under S. 560(1) and (3) were sent, their copies and dispatch proof are not traceable. On examination of annexures, it appears that the address of the registered office of the petitioner in the records of the respondent is incorrect. The petitioner has not filed on record any proof of intimation of the change of the address of its registered office, to the respondent.



It is stated for the petitioner that the present petition is within the period of limitation stipulated by S. 560(6) of Companies Act, 1956.

The respondent has submitted that the respondent has no objection to the restoration of the petitioner company's name under Section 560(6) of the Companies Act, 1956, subject to the petitioner filing all statutory documents, i.e. annual returns and balance sheets after 2002, and other requisite documents along with filing fee and additional fee, as applicable on the date of actual filing. The certificates of 'No Objection' of the directors, to the restoration of the name of the company to the Register maintained by the respondent, have also been placed on record.

Referring to one of the case the Court held that:

The object of section 560(6) of the Companies Act is to give a chance to the company, its members and creditors to revive the company which has been struck off by the Registrar of Companies, within a period of 20 years, and to give them an opportunity of carrying on the business only after the company judge is satisfied that such restoration is necessary in the interests of justice."

Under the circumstances, it is entirely possible that the respondent had sent notices under S.560 to the petitioner on the old address of its registered office and the same may not have been received by the petitioner. Consequently, the condition precedent for the initiation of proceedings to strike off the name of petitioner from the Register maintained by the respondent was not satisfied. Looking to the fact that the petitioner is stated to be a running company and that it has filed this petition within the stipulated limitation period, it is only proper that the impugned order of the respondent dated 23.06.2007, which struck off the name of the petitioner from the Register of Companies, be set aside. At the same time, however, there is no gainsaying the fact that a greater degree of care was certainly required from the petitioner company in ensuring statutory compliances. Looking to the fact that annual returns and balance sheets were not filed for almost fourteen years, the primary responsibility for ensuring that proper returns and other statutory documents are filed, in terms of the statute and the rules, remains that of the management.

Accordingly, the petition is allowed. The restoration of the company's name to the Register maintained by the Registrar of Companies will be subject to payment of costs of ₹ 22,000/- to be paid to the common pool fund of the Official Liquidator, and the completion of all formalities, including payment of any late fee or any other charges which are leviable by the respondent for the late deposit of statutory documents within 8 weeks; the name of the petitioner company, its directors and members shall, stand restored to the Register of the respondent, as if the name of the



company had not been struck off, in accordance with S.560(6) of the Companies Act, 1956.

Liberty is granted to the respondent to proceed with penal action against the petitioner, if so advised, on account of the petitioner's alleged default in compliance with S.162 of the Companies Act, 1956.

Summary of the decision held:

It is the duty and responsibility of the management of the company to ensure that proper returns and other statutory documents are filed, with true and correct information in a timely manner. Else the Registrar of Companies has the power to strike-off the name of the company.



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