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CHARTERED ACCOUNTANTS

Communiqué

Corporate & other related laws

February 2024

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Power given to Central Processing Center for examining every application

The Ministry of Corporate Affairs vide issuing notification no. G.S.R 107(E) dated February 14, 2024 has issued "the Companies (Registration Offices and Fees) Amendment Rules, 2024, which has come into force with effect from February 16, 2024. The amendment inter-alia provides that:

i) New rule 10A has been inserted to the Companies (Registration Offices and Fees) Rules, 2014, establishing a Central Processing Center (CPC).

ii) The Central Processing Center shall be examining every applications, e-Forms, or documents for approval, registration or taking on record by the Registrar.

iii)The Registrar shall take a decision on the application, e-forms or documents within thirty days from the date of its filing excluding the cases in which an approval of the Central Government or the Regional Director or any other competent authority is required.

iv)The Registrar of CPC shall exercise jurisdiction all over the India in respect of the examination of the certain enlisted applications/e-Forms/documents.

v)Further, in case of multiple applications/eForms/documents, are filed at a same time, then all such applications/e-Forms/documents shall be examined and decided by the Registrar of CPC.

MCA operationalises Central Processing Centre (CPC) for Centralised Processing of Corporate Filings.

CPC will process applications in time-bound and faceless manner on the lines of Central Registration Centre (CRC) and Centralised Processing for Accelerated Corporate Exit (C-PACE). 12 forms/applications will be processed at CPC from 16.02.2024 followed by other forms from 01.04.2024 onward.

On the lines of continuous endeavor to provide Ease of Doing Business in pursuance to Union Budget Announcement 2023-24, Central Processing Centre (CPC) has been established to process forms filed as part of various regulatory requirements under Companies Act and Limited Liability Partnership Act (LLP Act) in a
centralised manner, requiring no physical interaction with the stakeholders.

The Central Registration Centre (CRC), Centralised Processing for Accelerated Corporate Exit (C-PACE), and CPC will ensure speedy processing of applications and forms filed for incorporation, closure and for meeting regulatory requirements so that the companies are incorporated, closed, can alter and raise capital, and are able to complete their various compliances under the corporate laws with ease.

Violation of provisions of Section 92(4) of the Companies Act, 2013-Non filing of Annual Return by the Company

Brief Facts: In the matter of Gagan Narang Sports Promotion Foundation under Section 454(3) read with section 92 read with of the Companies Act, 2013, inquiry and examination of records has been observed that the company has not filed Annual Return for the F.Y. 2019-20. Thus, company and its directors has violated the of provisions of Section 92(4) and liable for action u/s 92(5) of the Companies Act, 2013. Adjudication officer has issued adjudication notice to the company and its officers in default for the violation. A reply to the Adjudication notice has been given by the company and its directors inter alia stating that company has conducted the Annual General meeting within the prescribed timeline for the financial year 2019-20 but failed to file the necessary forms with the Registrar of Companies. Now the company has complied and filed the necessary forms with the Hon'ble Registrar of Companies for the financial year 2019-20 vide SRN F59268565 dated 01/03/2023.

Order: After considering the submission made in the application and facts of the case, it is proved beyond doubt that the company and the officers of the company have defaulted in complying the provisions under section 92(4)) of the Act and made the offence good on 01.03.2023. Further taking into the consideration the proviso of sub-section (3) of section 454 of the Companies Act, 2013 which inter alia provides that in case the default related to noncompliance of section 92 has been rectified either prior to, or within thirty days of the issue of the notice by the adjudicating officer, no penalty be imposed in this regard and all proceedings under this section in respect of such default shall be deemed to be concluded.

Having considering the facts and circumstances of the case and after taking into the account the provisions mentioned in the relevant Rules followed by amendments in section 454(3) of the Companies Act 2013, Registrar of Companies is of the opinion that no penalty shall be imposed for the default related to non compliance of section 92 of the Act as the said default has been rectified by filing its Annual Return for the financial year ended 31-03-2020 on 01.03.2023 prior to issue of notice by Adjudicating officer. Accordingly, the company is directed to file e-form INC-28 with the office of ROC, Pune.

Adjudication Order of penalties in the matter of Kudos Finance and Investments Private Limited under Section 454(3) read with section 138 of the Companies Act, 2013 read with rule 13 of the Companies (Accounts) Rules, 2014

Brief Facts: An Inquiry was conducted by the Investigating Officer and during the Inquiry it was pointed out by the Investigating Officer that the turnover of the company exceeds the Rs.1000 Crore. Hence, in compliance of the Section 138 of the Companies Act, 2013, the company shall appoint internal auditor & shall conduct audit in the company. However, the company neither appointed internal auditor and nor conducted audit in the company and failed to comply with requirements of section 138 of the Companies Act, 2013. Thus, company and its officers are liable under provisions of section 450 of the Act. A reasonable opportunity was given to company and its directors. However, reply submitted by the Company was not satisfactory and the competent authority has directed to adjudicate the matter.

Order:

The Adjudicating Officer inter alia order that the applicant company and its officers, who have defaulted the provisions of section 138(1) of the Act that the turnover of the company exceeds the Rs.1000 Crore & the company neither appointed an internal auditor and nor conducted audit in the company, and failed to comply with requirements of section 138, hence company and its officers are liable under provisions of section 450 of the Act.

In the matter of Veena Ramanathapura Sreenivasarangan & Others (Appellants) Vs. Amruthamgamaya Nature Care and Leisure Private Limited & Anr (Respondents)

Brief Facts: A Petition under Section 241 of the Companies Act, 2013 was filed before NCLT and NCLT ordered investigation of accounts of the Company by appointing an Independent Chartered Accountant to investigate and audit accounts of the Company for the financial years ending on 31.03.2016, 31.03.2017 and 31.03.2018. Learned Sr. Counsel appearing for the Appellant before the NCLAT stated that the Tribunal has erred in directing for Audit of the accounts of the Company through an independent Chartered Accountant without giving a finding of `Oppression and Mismanagement' and without giving a finding of any fraud committed. It was also submitted that appointment of independent Auditor to investigate the books and records of the Company amounts to fishing and roving expedition despite the fact that the allegations made in the Petition were general and vague. Judgement: The Hon'ble NCLAT reliance placed this Tribunal Order in the case of `Archer Power System P. Ltd.' Vs. `Cascade Energy P. Ltd. & Ors.', reported in 2020 SCC OnLine NCLAT 1241 and held that the Tribunal under Rule 11 of NCLT Rules, 2016 has the inherent powers to cause audit of accounts or to make such orders as may be necessary for meeting the ends of justice and we find no fault in the impugned order on this account. As a consequence, the present Appeal fails and is accordingly dismissed. No order as to costs. The connected pending Interlocutory Applications, if any, are closed.

Relaxation of additional fees and extension of last date of filing of Form No. LLP BEN-2 and LLP Form No.4D under the Limited Liability Partnership Act, 2008

Ministry of Corporate Affairs (MCA) has issued general circular no. 01/2024 dated February 07, 2024 stating that, it has notified LLP (Significant Beneficial Owners) Rules, 2023 and prescribed E Form LLP BEN-2 to file return to the Registrar in respect of declaration under section 90 of the Companies Act, 2013. Similarly, MCA has notified LLP (Third Amendment) Rules, 2023 and prescribed E Form LLP No. 4D to file return to the Registrar in respect of declaration of beneficial interest in contribution received by the LLP. In view of transition of MCA 21 from version-2 to version-3 and to promote compliance on part of reporting LLPs, it is informed that such LLPs may file form LLP BEN-2 and LLP Form No. 4D, without payment of any additional fees, upto 15.05.2024. The two forms shall be made available in version-3 for filing purposes w.e.f 15.04.2024

Establishment of Central Processing Centre

The Ministry of Corporate Affairs (MCA) has notified Section 396 (1) and (2) of the Companies Act, 2013, it has established a Central Processing Centre at Indian Institute of Corporate Affairs, Plot No. 6,7,8, Sector 5, IMT Manesar, District Gurgaon (Haryana), Pin Code- 122050 having territorial jurisdiction all over India, for the purpose of the provisions of the said section.

This notification shall come into force from the 6th February, 2024. The Central Processing Centre shall process and dispose off e-forms filed along with the fee as provided in the Companies (Registration of Offices and Fees) Rules, 2014.The jurisdictional Registrar, other than Registrar of the Central Processing Centre, within whose jurisdiction the registered office of the company is situated shall continue to have jurisdiction over the companies whose e-forms are processed by the Registrar of the Central Processing Centre in respect of all other provisions of the Companies Act, 2013 and the rules made thereunder.

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