



THE INSTITUTE OF Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

प्राप्ति एवं प्रेषक अनुभाग/R & I Section
भारत सरकार/Govt. of India
कार्पोरेट कार्य मंत्रालय
Ministry of Corporate Affairs
बं सं./Dy. No. 346 & 347
दिनांक/Date 09/7/2020

MCA: July: 2020

July 9, 2020

Shri Rajesh Verma, IAS
Secretary
Ministry of Corporate Affairs
Government of India
Dr. Rajendra Prasad Road
Shastri Bhawan
New Delhi 110001

Dear Sir,

Sub Request for relief under the Companies Fresh Start Scheme, 2020

We wish to draw your kind attention towards Circular No 11/2020, dated March 24, 2020 and further Circular No. 12/2020 dated March 30, 2020, issued by the Ministry of Corporate Affairs ('MCA'), wherein a Scheme has been introduced namely the **Companies Fresh Start Scheme, 2020** ('Scheme'). The Scheme is applicable for the period from April 1, 2020 to September 30, 2020.

In the wake of global pandemic, the said Scheme is a welcome step to provide an opportunity to the defaulting companies to make a fresh start by filing the belated documents under the Companies Act, 2013 with normal fees without the requirement of payment of additional fees. The Scheme intends to provide immunity from the launch of prosecution and proceedings for imposing penalty on account of delay in filing of documents and is available only in respect of filings made during the period of Scheme as per the conditions mentioned therein.

However, the Scheme is silent where MCA had filed prosecution and such companies have subsequently to the said prosecution filed their documents, prior to the Scheme. The Scheme is not applicable to filings made with late fee prior to the enforcement of the Scheme. The above-said companies would have been saved from prosecution and also from the payment of additional fee, if they would not have filed the documents before the enforcement of the Scheme and filed under the Scheme, which would have saved them from the prosecution or if prosecution was pending, the same would have been withdrawn.

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सत्यं वद। धर्मं चर। इष्टं कुरु। त्रुतिः। अहिंसे।
इष्टं कुरु। त्रुतिः। अहिंसे।

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Therefore, some of the companies may be put in disadvantageous position as compared to others as the Scheme does not provide immunity to companies which came first in compliance prior to the coming into force of the Scheme. These Companies as well as officers of the Companies have already paid additional fees and further would be subject to penalty or prosecution as the case may be.

In view of the above, it is requested that companies which have filed the documents prior to coming into force of Scheme may be extended the benefit of immunity from prosecution and proceedings for imposing penalty on account of delay. Also the pending prosecution, if any, against these companies be allowed to be withdrawn.

This will help in easing the compliance burden in the prevailing difficult times, enhance the ease of doing business and will help the Companies to have a fresh start.

We shall be pleased to provide any further information in this regard on hearing from your goodself.

Thanking You,

Yours faithfully,

(CS Asish Mohan)
Secretary

CC: Shri KVR Murty
Joint Secretary
Ministry of Corporate Affairs
Government of India
Dr. Rajendra Prasad Road
Shastri Bhawan
New Delhi 110001