



Monthly Newsletter

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Secretary, MCA

From The Secretary's Desk

Several policy measures have been undertaken in the recent past by the Government of India to spur economic growth. To encourage domestic manufacturing, validity of industrial licences are allowed to be extended to seven years, restrictions on annual capacity in defence products have

been eased and direct sale of defence items to government entities permitted. Deregulation of diesel prices and relaxation in procedures for FDI in construction sector are some other measures towards sustaining investors' confidence. The Markit Global Business Outlook Survey for October, 2014 reflects higher business optimism in India than in other regions for the next twelve months.

The Indian Economy is showing signs of revival with industrial output rising by 2.5% in September, 2014, including double digit growth in Capital goods sector (11.6%). Both the Wholesale Price Index and Consumer Price Index have registered a steady decline in the rate of inflation estimated at 1.8% and 5.5% respectively for the month of October, 2014. These factors, along with a fall in international oil prices by about 30% since mid-June, may weigh with the RBI to consider the much-awaited policy rate cuts.

In the capital market, the scenario is optimistic. The BSE Sensex has breached the 28,000 mark this month, while NIFTY is above 8300 levels. The investors are upbeat. As the cap of \$25 billion for investment by foreign funds in Government securities is about to be reached, foreign investment is shifting to Indian Corporate Bonds and is presently around \$30 billion. The positive momentum in the economic indicators is reassuring, and India is moving faster towards a high growth trajectory.

The Department of Public Enterprises has issued a fresh set of guidelines on Corporate Social Responsibility and Sustainability for Central Public Sector Enterprises (CPSEs), aligning them with CSR provisions of the Companies Act, 2013. I appreciate their endeavor to make sustainability a way of life in the normal business activities of CPSEs, over and above their CSR obligation. Other companies can take a cue from the spirit of these guidelines.

I wish to commend the corporate sector and Ministry officials who administer the MCA21 portal for having ensured seamless filing of Annual Returns that has crossed the 15 lakh mark in a single month. On our part, I wish to assure that the Ministry of Corporate Affairs will constantly endeavor to facilitate corporate growth through enlightened regulations.



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Senior Level Appointments:

1. Shri S.B. Gautam, an officer of the Indian Corporate Law Service, upon his promotion to the Senior Administrative Grade of the Service, has assumed charge as Director of Inspection and Investigation with effect from 27.10.2014.
2. Shri R.C. Meena, Director of Inspection and Investigation, a Senior Administrative Grade officer of the Indian Corporate Law Service, has been posted as Director in the Office of Directorate General Corporate Affairs with effect from 27.10.2014.

MOS at CSR Conclave – 2014 : Smt. Nirmala Sitharaman, Minister of State (IC) for Commerce and Industry and the then Minister of State for Corporate Affairs and Finance, addressed the "CSR Conclave - 2014, Utilizing CSR as a Tool for Sustainable Growth" organized jointly by the Ministry of Corporate Affairs, the Indian Chamber of Commerce (ICC) and the Indian Institute of Corporate Affairs (IICA) on 13.10.2014 at Guwahati. The Hon'ble Minister suggested larger role for social accounting to check the utilization of CSR money. The conclave was attended by corporate, NGOs, CSOs, industry captains, industry organizations, institutions and CSR implementing agencies.

Yields of Indian Government Securities and Corporate Bonds attractive: The \$25-billion limit on purchase of government securities by foreign funds is close to being exhausted. Overseas portfolio investors have invested about \$11.13 billion into lucrative Indian corporate bonds in the past four months alone. Cumulatively, Overseas investors have used up \$30 billion within the limit of \$51 billion fixed on foreign purchase of Indian Corporate Bonds.

DPE issues Guidelines on CSR for CPSEs: The Department of Public Enterprises has issued a new set of guidelines on Corporate Social Responsibility and Sustainability for Central Public Sector Enterprises (CPSEs), aligning them with the CSR provisions of new Companies Act. It calls for making sustainability initiatives a way of life in the CPSEs over and above the 2% to be spent for CSR, and developing in-house expertise for better monitoring. It also requires all profit-making CPSEs to spend on CSR. CPSEs are asked to give priority to the issues which are of foremost concern in the national development agenda, such as safe drinking water for all, provision of toilets especially for girls, health and sanitation, education, etc.

MCA21 Filings Sets New Record: The Ministry had put in place a mechanism for ensuring seamless e-filing during the peak period of October-November, 2014. The system had no glitches and the total number of annual statutory filings crossed the 15 lakh mark during the Month of October, 2014 alone. The daily filing exceeded 1 lakh on four occasions during the same period. These mark new highs in the efficiency of the MCA21 system.

Partnership of Trustee in LLP: In response to queries raised in this regard, the Ministry of Corporate Affairs has clarified, in consultation with the Law Ministry, that it is permissible for a trust or a trustee representing a trust in the case of "Real Estate Investment Trust" (REIT) or "Infrastructure

Investment Trust" (InvITs) or such other trusts set up under SEBI regulations, to become a Partner in an LLP. It is clarified vide **General Circular No. 37/2014** that such a trustee can hold partnership in an LLP in its name without the addition of the statement that it is a Trustee.

Auditor Obligations on Internal Financial Controls: A new Rule 10A has been inserted in the Companies (Audit and Auditors) Rules, 2014 in the context of Section 143(3)(i), to make it obligatory for the auditor to make a statement about existence of adequate internal financial controls system and its operating effectiveness for the financial years commencing on or after 01.04.2015. For financial year commencing on or after 01.04.2014 and ending before 31.03.2015, inclusion of such a statement has been made voluntary (**Notification G.S.R. 722(E) dated 14.10.2014**).

Election of Director in Not-For-Profit Companies: A person contesting for directorship in a company incorporated under Section 8 of the Companies Act, 2013 (corresponding to section 25 of Companies Act, 1956) is required to deposit a sum of rupees one lakh as per Section 160(1) of the Companies Act, 2013. However, the law is silent on the mode of disposal of such money if the person fails to secure more than twenty five per cent of the total valid votes. The Ministry has clarified vide **General Circular No. 38/2014** dated 14.10.2014 that in such cases, the Board of Directors is empowered to decide as to whether such a deposit is to be forfeited or refunded.

Consolidation of Accounts: For consolidation of accounts, two exceptions have been carved out of Rule 6 of the Companies (Accounts) Rules, 2014 (**Notification G.S.R. 723(E) dated 14.10.2014**). An intermediate wholly-owned subsidiary, other than a wholly-owned subsidiary whose immediate parent is a company incorporated outside India, is exempted in respect of preparation of consolidated financial statement. A company having no subsidiaries but only having associate company(ies) and/or joint venture(s) is exempted from consolidation of financial statement in respect of associate company(ies) and/or joint venture(s) for the financial year commencing on or after 01.04.2014 and ending before 31.03.2015. It is also clarified vide **General Circular No. 39/2014** dated 15.10.2014 that while preparing notes in Consolidated Financial Statement (CFS) under Schedule III to the Companies Act, 2013, the company would need to give all disclosures relevant for CFS only and not provide a mere repetition of the disclosures made by it under stand-alone accounts.

Selection of Members of COMPAT: The Selection Committee for the purposes of filling vacancies in the Competition Appellate Tribunal (COMPAT) is required to recommend a panel of upto three names, in respect of each vacancy, in order of merit. Rule 5 of the Competition Appellate Tribunal (Term of the Selection Committee and the Manner of Selection of Panel of Names) Rules, 2008 has accordingly been substituted (**Notification G.S.R. 728(E) dated 15.10.2014**).

Company Law Settlement Scheme, 2014: Company Law Settlement Scheme, 2014 (CLSS-2014), announced by the Ministry of Corporate Affairs, providing a one-time opportunity for defaulting companies to file their annual statutory

documents, with granting immunity from prosecution and reduced fee, was in operation from 15.08.2014 to 15.10.2014. The same has been extended up to 31.12.2014 vide **General Circular Nos. 40/2014 dated 15.10.2014 and 44/2014 dated 14.11.2014**. Companies that had filed their annual returns during the period 01.04.2014 to 15.08.2014 (i.e., commencement of the CLSS) would attract disqualifications only for future defaults in filing their returns (**General Circular No. 41/2014** dated 15.10.2014). It may be mentioned that under Section 164(2)(a) of the Companies Act, 2013, a Director who has not filed financial statements or annual returns for any continuous period of three financial years, is disqualified to be a Director.

Contributions to "Swachh Bharat Kosh" and "Clean Ganga Fund" as CSR: Entries (i) and (iv) of the Schedule VII of the Companies Act, 2013 have been expanded to include contributions to the "Swachh Bharat Kosh" for the promotion of sanitation and the "Clean Ganga Fund" for rejuvenation of River Ganga. It may be mentioned that Schedule VII gives the list of broad activities, expenditure on which qualify for Corporate Social Responsibility (CSR) by companies covered under Section 135 of the Companies Act, 2013.

Merger of National Spot Exchange Limited with its parent: The Central Government is of the view that there is a prima facie case to order, in public interest, that the National Spot Exchange Limited (NSE) be merged with its holding company, viz., Financial Technologies (India) Ltd. (FTIL) under Section 396 of the Companies Act, 1956. Accordingly, the Central Government has issued a Draft Order dated 21.10.2014 on the amalgamation of NSE with FTIL under Section 396 of the Companies Act, 1956 inviting objections, suggestions, etc. thereon from all members and creditors of both companies, and other stakeholders for consideration by the Ministry.

e-Form for intimating appointment of Auditors made available: e-Form ADT-1 for intimating appointment of Auditors, under section 139(1) of the Companies Act, 2013, by the companies is available for e-filing on the MCA website www.mca.gov.in under 'company forms download' with effect from 20.10.2014. Form ADT-1 is to be filed as a separate e-form, and not as an attachment to the Form GNL-2.

Swachh Bharat Mission at MCA: As a part of the Hon'ble Prime Minister's call for making "Swachh Bharat" a mass movement, a programme was organised by the Ministry of Corporate Affairs at Shastri Bhawan on 02.10.2014. Shri Naved Masood, Secretary, Ministry of Corporate Affairs administered the "Swachhta Sapath" (Pledge) to all officers and staff of the Ministry. Secretary, MCA exhorted the message of cleanliness to all officers/staff of the Ministry to make it an individual and group effort to make their work place clean, hygienic and pleasant. A documentary film produced by *Doordarshan* on "Swachh Bharat" on the occasion of launch of Cleanliness Mission was also screened.

Hindi Pakhwada: Under the Official Language Policy of the Central Government, the fortnight 12.09.2014 – 26.09.2014 was celebrated as the "Hindi Pakhwada". Shri Arun Jaitley, Hon'ble Minister for Corporate Affairs emphasized the significant role of the Hindi language in Indian Culture,

and exhorted the officials of the Ministry to work in Hindi. Various competitions in Hindi, such as Essay writing, noting and drafting, quiz, oratorical extempore, recitation of poetry etc. were held among the officers and staff of the Ministry, and the winners thereof were awarded prizes by Secretary, MCA on 17.10.2014.



Shri Naved Masood, Secretary, MCA distributing the prizes to winners of various competitions organized on the occasion of Hindi Pakhwada.

Investor Protection and Awareness:

- A.** In collaboration with the three Professional Institutes (i.e., Institute of Chartered Accountants of India, Institute of Company Secretaries of India, and Institute of Cost Accountants of India), 203 Investor Awareness Programmes were conducted in different towns/cities of the country during October, 2014.
- B.** Till the end of October, 2014, as many as 3226 companies have uploaded information about unpaid and unclaimed amounts of investors (share application moneys, dividends, debentures, deposits etc.) lying with them on the website iepf.gov.in. This website has been set up for companies to file details of unpaid and unclaimed amounts of investors for the last seven years or less, which are yet to be transferred to the Investor Education and Protection Fund, so as to enable the investor to reclaim the said money from the company. The total amount reported by companies by end October, 2014 amounts to Rs. 4115.36 crore.

ICSI Celebrates 46th CS Day: The Institute of Company Secretaries of India (ICSI) celebrated its 46th Foundation Day as Company Secretary Day (CS Day) throughout the country. The day was commemorated by organising seminars, investor awareness programmes, quiz competitions, blood donation camps, painting competitions, debates etc. A mega programme was organised at New Delhi on 04.10.2014. The participants included a huge contingent of members, students and employees of ICSI. General (Retd.) Shri V. K. Singh, Hon'ble Union Minister of State in the Ministries of Development of North Eastern Region, External Affairs and Overseas Indian Affairs, Government of India, Hon'ble Shri Justice Dilip Raosaheb Deshmukh, Chairman, Company Law Board, Dr. Arun Chaturvedi, Hon'ble Minister of Social Justice and Empowerment, Government of Rajasthan, Shri M. J. Joseph, Additional Secretary, MCA, and CS R. Sridharan, President, ICSI were among the dignitaries who spoke on the occasion.



Review of Corporate Sector:

- A.** As on 31.10.2014, the number of companies registered under the Companies Act was 14.27 lakhs. Of these, 2.61 lakh companies were closed and 27,512 companies are in the process of being closed. As many as 1.41 lakh companies have not filed their Annual Returns/ Balance Sheets (i.e., Annual Statutory Filings) for more than three consecutive years. In other words, there are about 9.96 lakh active companies, including 1.22 lakh companies which were incorporated within the preceding eighteen months (not due for Annual Statutory Filings).
- B.** A total of 4,282 companies, including 165 One Person Companies (OPCs), were registered under the Companies Act, 2013 during October, 2014 with authorized capital of Rs. 5,515.7 crore. The break-up of the newly incorporated companies by type is as follows:

Type of Company	No. of Companies registered in September, 2014	Total Authorised Capital (in ₹ Crore)
(1)	(2)	(3)
Companies Limited By Shares	4261	5515.71
Of which, (a) Private	4173	445.87
Of which, One Person Companies	165	3.75
(b) Public	88	5069.84
Companies Limited By Guarantee	20	0.05
Of which, (a) Private	19	0.05
(b) Public	1	0.00
Unlimited Companies (Private)	2	0.05
Of which, (a) Private	2	0.05
(b) Public	0	0.00
Total	4283	5515.78

- C.** Under the category of companies registered as limited by shares, Maharashtra had maximum number of registrations (822) followed by Delhi (605) and Uttar Pradesh (384). Economic activity-wise maximum number of companies (1,994) were registered under Business

Services (IT and R&D).

- D.** During October, 2014, five State Level Public Enterprises (SLPEs) and two Central Public Sector Undertakings (CPSUs) were registered under the Companies Act, 2013, with authorized capital of Rs. 46.15 crore. The SLPEs incorporated are: 1. Gujarat S.C. Most Backward Caste Development Corporation, Gujarat; 2. Andhra Pradesh State Skill Development Corporation, Andhra Pradesh; 3. Telangana State Mineral Development Corporation Limited, Telangana; 4. Guna City Transport Services Limited, Madhya Pradesh and 5. Rythu Sadhikara Samstha, Andhra Pradesh. NBCC Services Limited, Delhi and Boi Merchant Bankers Limited, Maharashtra were incorporated as a CPSUs. For more statistical details about the growth of the corporate sector, the reader is invited to the 'Monthly Information Bulletin on Corporate Sector', at URL: mca.gov.in/MinistryV2/InformationBulletin.html.

Major Events Attended by Senior Officers of the Ministry:

- The Ministry of Corporate Affairs observed 'Vigilance Awareness Week' during 27.10.2014 to 01.11.2014. The pledge was taken by all the officials and staff of the Ministry.
- The Ministry of Corporate Affairs observed "Rashtriya Ekta Diwas (National Unity Day)" on 31.10.2014. Shri Naved Masood, Secretary, MCA has administered a pledge on the Occasion.
- Shri M.J. Joseph, Additional Secretary, MCA, inaugurated and delivered the keynote address at the Seminar on Companies Act, 2013 jointly organised by Bangalore Chamber of Industry and Commerce and the Bangalore Chapter of the Institute of Company Secretaries of India on 31.10.2014 at Bangalore.
- Smt. Sibani Swain, Economic Adviser, MC Adelivered a Keynote Address at 4th Indo-Korea CSR Forum on the theme "CSR: New Partnership for Sustainable & Inclusive Development" hosted by the Federation of Indian Chambers of Commerce and Industry (FICCI) and the Korean Embassy, held on 30.10.2014 in New Delhi.
- A Review Meeting on development of MIS Reports under MCA21 (Version-2) was held under the Chairmanship of Shri M.J. Joseph, Additional Secretary, MCA on 16.10.2014.

Major events at CCI:

1. Shri Ashok Chawla, Chairperson, participated in International Bar Association (IBA) Conference and Roundtable of Asian Enforcers during October, 20 -21, 2014 in Tokyo, Japan.
2. Half day workshop on Reading and Analysis of Orders/ Judgment was organized on 10.10.2014 for the officers of CCI.
3. Workshop in collaboration with Organization for Economic Cooperation and Development (OECD) on "Competition Assessment" was organized during October, 15 -16, 2014 for officers of CCI.
4. Presentation on 'Procurement & Competition Regulation' by Senior Procurement Specialist of the World Bank was organized on 13.10.2014 at CCI.