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‘Companies fresh start’ scheme 2020 and llp settlement scheme, 2020

Introduction:

Government of India's efforts to provide relief to law abiding companies and Limited Liability Partnerships (LLPs) in the wake of COVID 19 therefore Ministry Of Corporate Affairs has come up with a Good Opportunity for all those Companies and Limited Liability Partnership (LLP). These are all in default related to filing, therefore all companies registered in India to make a fresh start on a clean state, Ministry has decided to take certain alleviating Measures for the benefit of all Companies and to provide a similar facility to LLP. Well know numerous Companies and LLP do not file documents in a timely manner with the Registrar of Companies therefore Ministry has announced a new Scheme aimed at assist defaulting Companies.



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What are benefits of this scheme?

- As to make enable them to complete their pending compliance by filing necessary documents.
- Besides, the scheme allows inactive companies to get their companies declared as 'dormant companies' by filing a simple application at a normal fee.
- This scheme shall save such companies from potential legal action by the regulators.
- Companies may avail immunity certificate from prosecution or imposition of penalty under the Act for belated filing.
- The company does not require paying an additional fee therefore with paying a normal fee company can save a huge amount.

What time frame given in this scheme for companies and llp?

Company:

- A company which has failed to file any return or form including Annual Returns and Financial Statements and which is governed under section 403 of Companies Act, 2013 can be filed with effect from 1st April 2020 to 30th September 2020 at a nominal fee as prescribed under The Companies (Registration and Office) Rules, 2014.

LLP:

- An LLP failed to file LLP agreement and changes, a notice of appointment of partner/Designated Partner and other annual filing documents. Those can be filed from 1st April 2020 to 30th September 2020.

Applicability

Companies:

- This scheme applies to 'defaulting companies' to file belated documents that were due for filing on any given date.

LLP:

- This scheme applies to 'defaulting LLP' to file belated documents that were due for filing on till 31st August 2020.

What are SPECIAL MESAURES FOR COMPANIES AND LLP?

Companies:

- Every defaulting company shall be required to pay normal fees as prescribed under Companies Act 2013 on the date of filing of belated documents that no additional fee required to pay. Herewith providing link of list of forms eligible waive of additional fee (http://www.mca.gov.in/Ministry/pdf/CFSS2020_02042020.pdf)
- Immunity shall be provided to extend such prosecution and proceeding for imposing a penalty under the act related to any delay associate with the belated filings.

Scheme does not apply to?

Company:

- Action taken for final notice for striking off the name u/s 248 by the designated authority.
- Application filed by companies for striking off the name of companies.
- A Company which have amalgamated under a scheme of amalgamation or compromise.
- Application filed for obtaining dormant status u/s 455.
- Vanishing companies.
- An Increase in authorized capital is involved (form SH-7).
- Charge related Documents (CHG-1, CHG-4, CHG-8, CHG-9).

- If a defaulting company or its officer who is in default has filed any appeal in respect of any statutory filing under the Companies Act 2013, against notice or complaint and order passed by a court or adjudicating authority therefore applicant shall withdraw the appeal before applying for immunity certificate.
- Where the last date of filing of appeal against the order of adjudicating authority officer under section 454(6) and falls between 1st of March, 2020 to 31st of May 2020 additional period of 120 days shall be allowed from such last date.
- Prosecution against the company shall not be initiated by the registry which is related to delay associate of filing document statement or return in under section 454(8) of Companies Act, 2013.
- For seeking immunity under this scheme, application shall be made in form CFSS-20 and this form shall be without fee however it shall be file after filing all due documents, return, etc.
- This shall be approved by the designated authority within the 6-month closure of the scheme.

Immunity shall not applicable to companies:

- Any matter of any appeal pending before the court of law.
- Any Management disputes of the company pending before Court of Law and tribunal.
- Court has order conviction in any matter or an order imposing penalty passed by adjudicating authority under companies Act 2013.
- No appeal shall prefer against such order of the court or adjudicating authority

What Scheme for inactive Companies?

Defaulting inactive companies May file due documents under CFSS- 2020 simultaneously:

- File MSC-1 form at normal fee u/s 455 of Companies Act 2013
- File STK-2 for strike off of the name of the company at normal fee.

LLP:

- Application made in Form-24 to registrar for strike off.

For any queries feel free to contact our team at Team DSMCO

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LLP:

- No additional fee is required to pay for filing belated documents that can file with a normal fee is payable for filing of such documents under this scheme.
- Defaulting which have filed their belated documents till 30th September, 2020 shall not be subjected to prosecution for such defaults and eligible for Immunity from precaution.
- This Scheme is only applicable on the filing of:
 - LLP agreement and changes (form-3)
 - Notice for appointment, cessation, change in name/address/designation of designated partner or partner and consent to become a partner/ designated of partner.(form-4)
 - Statement of accounts and solvency, annual or interim (form-8)
 - Annual return (form-11)

Benefit for DIN holders whose din marked as Deactivated:

Ministry of corporate affairs providing an opportunity to those DIN holders whose DIN is marked as 'Deactivated'.

- They may activate their DIN by filing form DIR-3kyc/DIR-3kyc web-based form between 1st April, 2020 to 30th September.
- Without paying the fee of INR 5000/-

Benefit for Companies marked as “active non compliant”:

Companies that have not filed Active Company Tagging Identities and Verification (ACTIVE) e-form are encouraged to become compliant again.

- By filing active form between 1st April 2020 to 30th September 2020.
- Without paying INR 10000/-