

RECENT AMENDMENTS IN JULY 2021

AMENDMENTS IN COMPANIES ACT 2013

Companies (Incorporation) Fifth Amendment Rules, 2021:

MCA on July 22, 2021 has issued the Companies (Incorporation) Fifth Amendment Rules, 2021 to further amend the Companies (Incorporation) Rules, 2014.

The following amendments have been made:

- ▽ Rule 33A, which specifies the allotment of a new name to the existing company under section 16(3) of the Act, has been inserted, namely:

“In case a company fails to change its name or new name, as the case may be, in accordance with the direction issued under sub-section (1) of section 16 of the Act within a period of three months from the date of issue of such direction, the letters “ORDNC” (which is an abbreviation of the words “Order of Regional Director Not Complied”), the year of passing of the direction, the serial number and the existing Corporate Identity Number (CIN) of the company shall become the new name of the company without any further act or deed by the company, and the Registrar shall accordingly make entry of the new name in the register of companies and issue a fresh certificate of incorporation in Form No.INC-IIC.
- ▽ Provided that nothing contained in sub-rule (1) shall apply in case e-form INC-24 filed by the company is pending for disposal at the expiry of three months from the date of issue of direction by Regional Director, unless the said e-form is subsequently rejected.
- ▽ A company whose name has been changed under sub-rule (1) shall at once make necessary compliance with the provisions of section 12 of the Act and the statement, “Order of Regional Director Not Complied (under section 16 of the Companies Act, 2013)” shall be mentioned in brackets below the name of company, wherever its name is printed, affixed or engraved:

Provided that no such statement shall be required to be mentioned in case the company subsequently changes its name in accordance with the provisions of section 13 of the Act.”
- ▽ Form INC-IIC, which specifies the Certificate of Incorporation pursuant to change of name due to Order of Regional Director not being complied, has been inserted.

AMENDMENTS IN SEBI ACT 1992

▽ Circular on Intra-day Net Asset Value (NAV) for transactions in units of Exchange Traded Funds directly with Asset Management Companies:

SEBI, vide circular SEBI/IMD/CIR No.11/78450/06 dated October 11, 2006 has prescribed guidelines for applicability of ‘closing NAV of the day’ in respect of transactions in units of mutual fund schemes.

▽ Relaxation in timelines for compliance with regulatory requirements:

Due to Covid-19 pandemic and representation received from Stock Exchanges, it has been decided to extend the timelines for compliance with the following regulatory

requirements by the Trading Members / Clearing Members / KYC Registration Agencies.

▽ **Block Mechanism in Demat account of clients undertaking sale transactions:**

SEBI, vide circular no. SEBI/HO/MIRSD/DOP/CIR/P/2020/73 dated September 15, 2020.

Issued clarification w.r.t collection and reporting of margins by Trading Member (TM) / Clearing Member (CM) in Cash Segment. It was inter alia clarified that if Early Pay-In (EPI) of securities has been made to the Clearing Corporation (CC), then all margins would deemed to have been collected and penalty for short /non-collection of margin including other margins shall not arise.

● **AMENDMENTS IN GOODS AND SERVICES TAX ACT 2017**

Notification No. 30/2021 Dated: 30/07/2021:

▽ **To amend Rule 80 of the CGST Rules, 2017 and notify Form GSTR 9 and 9C for FY 2020-21.**

Rule 80 provides for exemption from filing self-certified GSTR-9C to taxpayers having aggregate turnover up to Rs.5 crore. Further, changes are notified to the format of Form GSTR-9C from FY 2020-21 onwards.

Notification No. 29/2021 Dated: 30/07/2021:

▽ **To notify section 110 and 111 of the Finance Act, 2021 with effect from 1st August 2021.**

Sections 35(5) of the CGST Act will be omitted and section 44 of the CGST Act stands amended as the reconciliation statement can be submitted on a self-certification basis instead of being furnished after audit and certification by CA/CMA.

Notification No. 31/2021 Dated: 30/07/2021:

▽ **Exemption to certain taxpayers from the requirement of filing Form GSTR-9 (GST annual return) for FY 2020-21**

Registered person, whose aggregate turnover in the financial year 2020-21 is up to Rs.2 crore, is exempted from filing annual return in Form GSTR-9 for the said financial year.

● **AMENDMENTS IN INCOME TAX RULES 1962**

Notification dated 2nd July 2021

▽ **These rules may be called the Income tax Amendment (18th Amendment), Rules, 2021.**

1. In the Income-tax Rules, 1962, (hereinafter referred to as the principal rules) in rule 8AA, after sub-rule (4), the following sub-rule shall be inserted, namely:-

In case of the amount which is chargeable to income-tax as income of specified entity under subsection (4) of section 45 under the head —Capital gains.

(i) the amount or a part of it shall be deemed to be from transfer of short term capital asset, if it is attributed to,-

- a) capital asset which is short term capital asset at the time of taxation of amount under subsection (4) of section 45; or
- b) capital asset forming part of block of asset; or
- c) capital asset being self-generated asset and self-generated goodwill as defined in clause (ii) of Explanation 1 to sub-section (4) of section 45; and

(ii) the amount or a part of it shall be deemed to be from transfer of long term capital asset or assets, if it is attributed to capital asset which is not covered by clause (i) and is long term capital asset at the time of taxation of amount under sub-section (4) of section 45.

2. In the principal rules, after rule 8AA, the following rule shall be inserted, namely:—

“8AB. Attribution of income taxable under sub-section (4) of section 45 to the capital assets remaining with the specified entity, under section 48

Notification dated 7th July 2021

▽ **In the Income-tax Rules, 1962, after rule 8AB, the following rules shall be inserted, namely:—**

"8AC. Computation of short term capital gains and written down value under section 50 where depreciation on goodwill has been obtained.

1. For the purposes of proviso to section 50, the written down value of the block of the asset and short term capital gains, if any, for the previous year relevant to the assessment year commencing on the 1st day of April, 2021 shall be determined in accordance with this rule.
2. Where the goodwill of the business or profession was the only asset or one of the assets in the block of asset "intangible" for which depreciation was obtained by the assessee in the assessment year beginning on the 1st day of April, 2020, the written down value of this block of asset for the previous year relevant to the assessment year commencing on the 1st day of April, 2021 shall be determined in accordance with the provisions of item (ii) of sub-clause (c) of clause (6) of section 43.
3. Where the reduction under sub-item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, for the previous year relevant to the assessment year commencing on the 1st day of April, 2021, exceeds the aggregate of the following amounts, namely:-
 - (i) The written down value of the block of assets at the beginning of the previous year relevant to the assessment year commencing on the 1st day of April, 2021 without giving effect to reduction under sub-item (B) of item (ii) of sub-clause (c) of clause (6) of section 43; and
 - (ii) The actual cost of any asset falling within the block of assets "intangible", other than goodwill, acquired during the previous year relevant to the assessment year commencing on the 1st day of April, 2021, such excess shall

be deemed to be the capital gains arising from the transfer of short-term capital assets

4. Without prejudice to the provisions of sub-rule (3) and section 55, where the goodwill of the business or profession was the only asset in the block of asset "intangible" for which depreciation was obtained by the assessee in the assessment year beginning on the 1st day of April, 2020, and the block of asset ceases to exist on account of there being no further asset acquired during the previous year relevant to the assessment year commencing on the 1st day of April, 2021 in that block, there will not be any capital gains or loss on account of the block of asset having ceased to exist.

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