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Analysing developments impacting business

THE COMPANIES (REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES) AMENDMENT RULES, 2022 - PROMOTING 'EASE OF DOING BUSINESS'

22 June 2022

Introduction

Earlier, in case of any defective, deficient, or incomplete applications filed by a company for voluntary removal of name, from the register of companies, such applications were rejected by the registrar of companies (**ROC**) and companies had to file a fresh application, thereby delaying the entire process.

Analysis

The Ministry of Corporate Affairs (MCA) on June 9, 2022, issued The Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022 to further amend The Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016. These rules come into force from the date of their publication in the Official Gazette, that is 9 June 2022.

- By virtue of this amendment, sub-rule (4) has been inserted in Rule 4 of Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 dealing with the application for removal of name of company, which provides as follows:
 - If upon examination of a Form STK-2 application, the ROC requires any additional information or finds such application or document defective or incomplete, in any respect, he shall direct the applicant to remove such defects and complete the form.
 - The applicant shall re-submit the complete form within 15 (fifteen) days from the date of such information.
 - Upon re-submission of the form or document(s), if the ROC again finds the form or document(s) defective or incomplete in any respect, he shall give another 15 (fifteen) days' time to the remove such defects or complete the form.
 - During each of the resubmissions, any failure to re-submit the form within the prescribed time, shall make the application invalid.

- Any re-submission of the application (in Form STK-2) made prior to the commencement of these rules shall not be counted for the purposes of reckoning the maximum number of re-submissions.

The MCA has also revised the formats for Forms STK-1, STK-5 and STK-5A.

Comments

Promoting 'ease of doing business', this amendment creates a more favourable environment for the companies, by encouraging an easier voluntary strike-off procedure.

For companies which have filed an application for voluntary removal of name from the register of companies, the MCA has by way of this notification, prescribed that the ROC may call for further information or document(s) with a maximum of 2 (two) re-submissions being permitted, in the case of any administrative defects or incomplete filing, along with a period of 15 (fifteen) days being provided at each stage, within which such re-submission is to be made.

This amendment by removing procedural bottlenecks provides much needed relief to the companies, as MCA has eased the process for voluntary strike-off from the register of companies by stipulating additional time for re-submission, thereby yielding procedural time efficiencies, and reducing the number of fresh applications which would be submitted.

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