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Analysing developments impacting business

MCA'S INTRODUCTION OF E-ADJUDICATION PLATFORM

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On 5 August 2024, the Ministry of Corporate Affairs (MCA) has notified amendments to the Companies (Adjudication of Penalties) Rules, 2014 (Adjudication Rules) by way of the Companies (Adjudication of Penalties) Amendment Rules, 2024 (Amendment) which will come in force from 16 September 2024.

Key Features of the Amendment

- The Central Government proposes to launch a centralised and advanced e-adjudication platform for adjudication of penalties.
- The following proceedings will take place only through an electronic mode on the e-adjudication platform:
 - issue of notices;
 - filing responses and supporting documentation;
 - conducting hearings;
 - recording attendance of witnesses;
 - passing orders; and
 - payment of penalty.
- If the e-mail address of the concerned person to whom a notice / summons is required to be issued under the Adjudication Rules is not available, the adjudicating officer will send a physical notice by post. A copy of such notice will be maintained by the adjudication officer in the electronic record on the e-adjudication platform.
- In case there is no address available for the concerned person, the notice will be put on the e-adjudication platform.

Comment

Under the present Adjudication Rules, the adjudicating officer would issue a notice to the concerned person before commencing proceedings, including hearings, filing of representations and passing of orders, all of which are conducted in a physical mode. Currently, while the Adjudication Rules permit filing of replies to notice and payment of penalty on the MCA portal in electronic mode, a centralised system equipped for all steps of the proceedings is not present. With the introduction of the Amendment, these processes, including hearings, will be conducted in electronic mode on the e-adjudication platform.

The Amendment also provides a format of 'Form ADJ' for filing an appeal against the adjudication order. While this form is available as part of the Adjudication Rules for filing of appeal in physical form, it is now made available for filing of appeals in electronic mode. The Amendment does not prescribe any format for initiation of adjudication proceedings.

As a positive measure, the e-adjudication platform will provide an online mode of conducting the proceedings. The introduction of this platform follows the Digital India initiative by providing the users the requisite infrastructure for online adjudication.

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