Companies Fresh Start Scheme, 2020

Parikh & Associates

Chartered Accountants

Sr	Particulars	Clarifications
No.		
1	Background of the Scheme	"Company Fresh Start Scheme, 2020" is a scheme to give a Onetime opportunity to the companies to enable them to complete their pending compliances by filing necessary documents in the MCA-21 registry including annual filings without being subject to a higher additional fee on account of any delay.
2	Tenure of the Scheme	1 st April, 2020 to 30 th September, 2020.
3	Benefits extended under Scheme	1) One-time waiver of additional filing fees for delayed filings. However, normal fees in respect of documents filed under scheme are leviable. 2) An immunity certificate in respect documents filed under this Scheme shall be issued which grants immunity from Penalty and Prosecution pertaining to any delay associated with filing of belated documents.
4	Benefits for Inactive Company	- Can get such an inactive company declared as "dormant company" by filing Form MSC-1 at a normal fee.

		- Can apply for striking off the name by filing Form STK-2 at normal fees.
5	Designated Authority	Registrar of Companies having jurisdiction over the registered office of the company.
6	Eligibility for the Scheme & Period of Default	Scheme is applicable for any "defaulting company" which has not filed any document, statement, return etc. including annual statutory documents, which were due for filing on any given date and are pending to file on the date of accessing the Scheme. Default relating any past period from incorporation of the company till the date is covered.
7	Applicability exclusions	Scheme shall not apply to: - Companies who have applied for Striking off its name - Companies against which action for final notice for striking off has been already initiated - Companies who have applied for obtaining Dormant Status - Amalgamated Companies under a scheme of arrangement or compromise

		- Vanishing Companies - filing of documents related to increase in the authorised capital
		- filing of charge related documents
8	Which defaults are not covered under	All other defaults except delay in filings of documents are not covered, such as proceedings
	Immunity	involving interests of any shareholder or any other person.
		For Example, under section 42(8), every company is required to file a return of allotment within the
		period provided therein. However, the proviso to section 42(4) also requires that the utilisation of
		money raised through private placement shall not be made unless the return of allotment has been
		filed in the registry. Now, the immunity shall only be available in respect of the proceeding for
		imposing penalty on account of delay in filing the return of allotment, but not on account of
		utilization of the money raised through private placement prior to the filing of the return with the
		registry.
9	What if Defaulting Company has already filed	Company shall first withdraw such appeal and furnish proof of withdrawal before filing the
	an appeal before a competent court or an	application for issue of immunity certificate under the scheme.
	authority	

10	Relaxation for Filing an Appeal against the	Where last date of filing an appeal against the order of an Adjudicating Authority falls between 1st
	order of an Adjudicating Authority	March, 2020 to 31st May, 2020, an extension of 120 additional days has been given from the last
		date of appeal filing.
		During the additional period of 120 days, no prosecution for noncompliance of the order of the
		adjudicating authority, in so far as it relates to delay associated in filing of any document, statement
		or return etc., shall not be initiated.
11	Procedure for applying for Immunity	An application for seeking immunity is required to be made by electronically filing Form CFSS-2020
		without any fees.
		Form CFSS-2020 shall be filed after documents are taken on record and approved by Authority but
		not later than six months of the expiry of the Scheme. (i.e. From 1st October, 2020 to 31st March,
		2021)
12	Exception to Immunity	Immunity is not available
12	Exception to initiality	
		- for matter of any appeal pending before the court of law in case of management disputes

		- in case any court has ordered conviction in any matter, or an order imposing penalty has been passed by an adjudicating authority under the Act, and no appeal has been preferred against such orders before scheme came into force.
13	Link to Circular	http://www.mca.gov.in/Ministry/pdf/Circular12 30032020.pdf

About Parikh & Associates

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