

General Circular No: 1 /2008

No.8/2/2007 CL-V
Government of India
Ministry of Corporate Affairs

5th Floor, A –Wing, Shastri Bhavan,
Dr. R.P.Road, New Delhi
Dated: 1st July 2008.

To

All Regional Directors,
All Registrars of Companies.

Subject: - Rescission of General Circular No.13 of 2007 dated 27-9-2007.

Sir,

The Hon'ble Company Law Board vide order dated 3-8-2007 passed under section 141 of the Companies Act-1956 had authorized the Central Government to accept documents relating to registration, modification and satisfaction of charges up to a period of 300 days from the date of event by levying additional fee prescribed in section 611(2) i.e. not exceeding ten times the amount of fee specified in Schedule X.

2. Pursuant to the aforesaid order dated 3-8-2007, the Ministry vide General Circular NO.13 of 2007 dated 27th September, 2007 which came into effect from 27th October, 2007 had taken a decision to permit Registrar of Companies to condone the delay beyond the prescribed period of 60 days and 30 days on all documents relating to registration, modification and satisfaction of charges up to a period of 300 days from the date of event by levying additional fee prescribed in section 611(2) i.e. not exceeding ten times the amount of fee specified in Schedule X.

3. Now, the Hon'ble Company Law Board has passed an order dated 7-5-2008, which is re-produced as follow:

“(i) The Central Government had filed a petition CP 502/141/2007 under Section 141 of the Companies Act, 1956 seeking for directions of this Board to permit Registrar of Companies to condone the delay beyond prescribed period of 60 days and 30 days from the date of registration/modification and satisfaction of charges respectively. On hearing this application, for reasons stated in the order, I passed an order on 3rd August, 2007 authorising the Central Government to accept registration/modification/satisfaction of charges up to 300 days from the date of events and had also stipulated that the same would be effective from the date on which requisite notification was issued by the Central Government. In terms of the said order, the Central Government issued a Circular on 27th September, 2007 specifying that the directions contained in the order dated 3rd August, 2007 would be effective from 27.10.2007.

(ii) Now the Central Government have filed an application seeking for permission to withdraw the Circular dated 27.9.2007 on the ground that the earlier application was

made for an ad-hoc arrangement to fine tune and smoothen the e-filing process pursuant to switching over from manual filing to e-filing through MCA 21, e-Governance project of the Ministry. Now the Central Government has undertaken a comprehensive review of the Companies Act which inter alia includes updation of Registration of Charges and therefore the ad-hoc arrangement made through the Circular dated 27.9.2007 does not require to be continued further and as such the Central Government may be permitted to withdraw the Circular as the same was issued pursuant to the directions of this Board.

(iii) Heard on the application. Since according to the Central Government, the purpose for which the directions contained in the order dated 3rd August, 2007 has been achieved, I grant the prayer of the Central Government to withdraw the circular dated 27.9.2007. A fresh Circular be issued at the earliest withdrawing the Circular dated 27.9.2007 and specifically stipulating that the procedure for seeking condonation of delay in terms of Section 141 as it stood prior to 27.10.2007 would come into force immediately”.

4. Now, therefore, pursuant to the order dated 7-5-2008 passed by the Company Law Board as reproduced above, the following decisions have been taken for implementation of the said order:-

- (i) The aforesaid order dated 7-5-2008 of the Hon’ble Company Law Board shall take effect from 6th July 2008.
- (ii) The decisions taken by the Ministry vide General Circular No.13 of 2007 dated 27th September, 2007 which came into effect from 27th October, 2007 will be in force up to midnight of 5th July 2008.
- (iii) The procedure for seeking condonation of delay in terms of Section 141 of the Companies Act, 1956 as it stood prior to 27-10-2007 would come into force from 6th July 2008.
- (iv) Therefore, documents filed on the portal (www.mca.gov.in), on or after 6th July 2008 for registration /modification of the charge or for giving of intimation of payment or satisfaction thereof after a period of 60 days or 30 days respectively, shall not be registered by the concerned Registrar until the delay is condoned by the Hon’ble Company Law Board.

5. All Registrars of Companies will ensure strict compliance of instructions contained in this Circular.

Yours faithfully,

Sd/=
(P.K.Malhotra)
Dy. Director (Inspection)

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3. PS to AS (Min. of Corporate Affairs)
4. PS to JS (K) (Min. of Corporate Affairs)
5. All Officers and Sections in the Ministry
6. MCA News Letter Dir. (SC)
7. All Official Liquidators
8. The Secretary, CLB – for kind information of the Chairman, Company Law Board New Delhi.
9. Director (SC), Web-Master MCA-21 Cell with the request to place the Notification/General Circular on Ministry's Website.
10. The Secretary, MRTP Commission, New Delhi
11. The DGIR, New Delhi .
12. Department of Economic Affairs North Block, New Delhi
13. Department of Economic Affairs (Banking Division), "Jeevan Deep" Parliament Street . New Delhi .
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16. SEBI, Plot No.C4-A, G-Block, Bandra Kurla Complex, Bandra(East), Mumbai-400051
17. Director, Commercial Office of CAG of India , 10-B S Zafar Marg, New Delhi .
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20. All Chambers of Commerce & Industry.
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31. Shri K.V.Narayanan, Principal Consultant, TCS Ltd for publication for the above circular on the portal for general information of all the stakeholders

Sd/=

(P.K.Malhotra)

Dy. Director (Inspection)