

General Circular No. 23/2012

**F. No. 17/147/2012-CL V
Government of India
Ministry of Corporate Affairs**

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi,
Dated the 6th Aug, 2012

To

All Regional Director,
All Registrars of Companies.

Subject: Company Law Settlement Scheme, (Jammu & Kashmir) 2012

Sir,

It has been observed that a large number of companies are not filing their due statutory documents (i.e. Balance Sheets and Annual Returns) timely with the Registrar of Companies. Due to this, the records available in the electronic registry are not updated and thereby are not available to the stakeholders for inspection. Further, due to non filing the documents on time, companies are burdened with additional fee, facing the prosecutions and being debarred from filing other documents electronically as provided in General Circular No. 33/2011 dated 01.06.2011 read with 63/2011 dated 06/03/2011 & 9/2012 dated 15/05/2012. Also, it has been further observed that non compliance of the filing of Balance Sheets and Annual Returns is even more critical in the state of Jammu & Kashmir.

2. In order to give an opportunity to the defaulting companies in the state of Jammu & Kashmir to enable them to make their default good by filing such belated documents and to become a regular compliant in future, the Ministry, in exercise of the powers under Section 611(2) and 637B (b) of the Companies Act, 1956 has decided to introduce a Special Scheme namely, "Company Law Settlement Scheme (Jammu & Kashmir), 2012" condoning the delay in filing documents with the Registrar, granting immunity from prosecution and charging additional fee of 25 percent of actual additional fee payable for filing belated documents under the Companies Act, 1956 and the rules made there under. The details of the Scheme are as under:-

(i) The scheme shall come into force on the 15.08.2012 and shall remain in force up to 14.12.2012.

(ii) **Definitions** - In this Scheme, unless the context otherwise requires, -

(a) "Act" means the Companies Act, 1956 (1 of 1956);

(b) "Company" means a company registered in the state of Jammu and Kashmir under the Companies Act, 1956 and a foreign company falling under section 591 of the Act having their liaison office in the state of Jammu & Kashmir;

(c) "defaulting company" means a company as defined above, which has made a default in filing of documents on the due date(s) specified under the Companies Act, 1956 and rules made there under;

(d) "designated authority" means the Registrar of Companies (Jammu & Kashmir) having jurisdiction over the registered office of the company registered in the state of Jammu and Kashmir and Registrar of Companies (Delhi) for foreign companies falling under section 591 of the Act having their liaison office in the state of Jammu & Kashmir.

(iii) **Applicability:** - Any "defaulting company" is permitted to file belated documents, which were due for filing till 30.06.2012, in accordance with the provisions of this Scheme:

(iv) **Manner of payment of fees and additional fee on filing belated document for seeking immunity under the Scheme** - The defaulting company shall pay statutory filing fees as prescribed under the Companies Act and rules made there under along with an additional fee of 25 percent of the actual additional fee standardised under sub-section (2) of Section 611 of the Companies Act, 1956, payable on the date of filing of each belated document;

(v) **Withdrawal of appeal against prosecution launched for the offences-** If the defaulting company has filed any appeal against any

notice issued or complaint filed before the competent court for violation of the provisions under the Act in respect of which application is made under this Scheme, the applicant shall before filing an application for issue of immunity certificate, withdraw the appeal and furnish the proof of such withdrawal along with the application;

(vi) Application for issue of immunity in respect of document(s) filed under the scheme - The application for seeking immunity in respect of belated documents filed under the Scheme may be made electronically in the Form annexed to the concerned Registrar of Companies, after closure of Scheme and after the document(s) are taken on file, or on record or approved by the designated authority as the case may be, but not after the expiry of six months from the date of closure of the Scheme. There shall not be any fee payable on this Form;

(vii) Order by designated authority granting immunity from the penalty and prosecution - The designated authority shall consider the application and upon being satisfied shall grant the immunity certificate in respect of documents filed in the Scheme. In case, company has shifted its registered office from Jammu & Kashmir to any other State subsequent to its filing of belated documents under the Scheme, the concerned Registrar of Companies shall consider the application and upon being satisfied shall grant such immunity certificate;

(viii) Scheme not to apply to certain documents –

(a) This Scheme shall not apply to the filing of documents other than following documents:-

Form 20 B - Form of filing annual return by a company having a share capital

Form 21 A – Particulars of annual return for the company not having share capital

Form 23AC & 23ACA – Form for filing Balance Sheet and Profit & Loss account

Form 23AC-XBRL & 23ACA-XBRL – Form for filing XBRL Balance Sheet and Profit & Loss account

Form 23B - Information by auditor to the Registrar

Form 52 - Filing of annual accounts by a foreign company

Form 66 - Form for submission of Compliance Certificate with the Registrar

(b) This Scheme shall not apply to companies against which action under sub-section (5) of section 560 of the Act has been initiated by the Registrar of Companies;

(ix) After granting the immunity, the concerned Registrar of Companies shall withdraw the prosecution(s) pending, if any, before the concerned Court(s);

3. At the conclusion of the Scheme, the designated authority shall take necessary action under the Companies Act, 1956 against the companies who have not availed this Scheme and are in default in filing of documents in a timely manner.

Yours faithfully,

(Sanjay Shorey)
Joint Director

Encl: As above

FORM

[Pursuant to Company Law Settlement Scheme, (Jammu & Kashmir) 2012]

Application for issue of immunity certificate under the Company Law Settlement Scheme, (Jammu & Kashmir) 2012

Note - All fields marked in * are to be mandatorily filled.

To

The Registrar of Companies,

Sir/ Madam,

I herewith make an application for issue of immunity certificate under the Company Law Settlement Scheme, (Jammu & Kashmir) 2012 and give below the following particulars, namely:-

1.(a) * Corporate identity number (CIN) or foreign company registration number (FCRN) of the company

(b) Global location number (GLN) of company

2.(a) Name of the company

(b) Address of the registered office or of the principal place of business in India of the company

(c) *e-mail ID of the company

(d) Date of incorporation of Indian company or date of establishment of the principal place of business in India of foreign company (DD/MM/YYYY)

3.Details of documents filed under the Company Law Settlement Scheme, (Jammu & Kashmir) 2012

Total number of Service Request Number (SRN)(s)

SRN	Form number(s)	Date of filing (DD/MM/YYYY)	Date of event (DD/MM/YYYY)	Statutory filing fees (in Rs.)	Actual additional fees (in Rs.)	Additional fee charged under CLSS, (J&K) 2012 (in Rs.)	Total fees paid (in Rs.)
Total (in Rs.)							

4. *Whether any appeal(s) was filed against any notice issued or complaint filed before the competent court for violation of the provisions under the Act in respect of the above mentioned document(s). If yes, attach proof of withdrawal of such appeal. Yes No Not Applicable
5. *Whether any prosecution(s) is pending in court against the company and its officers in respect of belated documents filed under the scheme. If yes, provide details thereof as an attachment. Yes No
6. *Whether any director(s) of the company is declared as proclaimed offender or facing criminal case(s) for economic offences. If yes, provide details of such director(s) as an attachment. Yes No

Attachments

- | | | |
|---|---------------------------------------|---|
| <p>1. Proof of withdrawal of any appeal(s) against any notice issued or complaint filed before the competent court</p> | <input type="button" value="Attach"/> | <p style="text-align: center;">List of attachments</p> <div style="border: 1px solid black; width: 200px; height: 80px; margin: 0 auto;"></div> <div style="text-align: center; margin-top: 10px;"><input type="button" value="Remove attachment"/></div> |
| <p>2. Details in respect of prosecution(s) pending against the company and its officers in respect of belated documents filed under the scheme which requires withdrawal by the Registrar</p> | <input type="button" value="Attach"/> | |
| <p>3. Details of director(s) declared as proclaimed offender or facing criminal case(s) for economic offences</p> | <input type="button" value="Attach"/> | |
| <p>4. Optional attachment(s) - if any</p> | <input type="button" value="Attach"/> | |

Verification

To the best of my knowledge and belief, the information given in this application and its attachments is correct and complete.

- I have been authorised by the Board of directors' resolution number dated (DD/MM/YYYY) to sign and submit this application.
- I am authorised by the Board of directors to sign and submit this application.
- * The company had failed to comply with the provisions of the Act as mentioned in respect of filing of above mentioned documents.
- The company has withdrawn the appeals pending before any Court or Company Law Board or Regional Director or any other adjudicating authority.

To be digitally signed by

Managing Director or director or manager or secretary of the company (in case of an Indian company) or authorised representative (in case of a foreign company)

*Designation

*Director identification number of the director or Managing Director; or Income-tax permanent account number (Income-tax PAN) of the manager or authorised representative; or Membership number, if applicable or income-tax PAN of the secretary (secretary of a company who is not a member of ICSI, may quote his/ her income-tax PAN)

For office use only:

eForm Service request number (SRN) eForm filing date (DD/MM/YYYY)

Digital signature of the authorising officer

This e-Form is hereby approved

This e-Form is hereby rejected

Date of signing (DD/MM/YYYY)