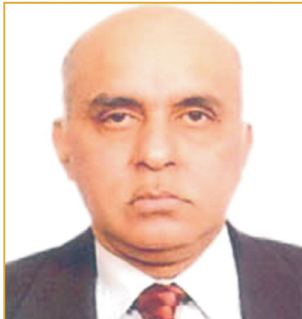




Monthly Newsletter

Volume - 36

May 2014



Shri Naved Masood,
Secretary, MCA

From The Secretary's Desk

The 'Industrial Outlook Survey' conducted by RBI during February-March 2014, reveals that business conditions in the Indian manufacturing sector improved in the last quarter of 2013-14. The major demand side parameters in terms of order books and exports indicated higher optimism vis-a-vis production and capacity

utilisation. The perception on profit margins also improved slightly in the same quarter, while the outlook for the first quarter of 2014-15 is moderate.



The policy interventions undertaken so far, to moderate prices and contain the Current Account Deficit (CAD), appear to have shown results in recent months. Headline inflation measured by the Wholesale Price Index (WPI) has eased to 5.2% in April, due to lower fuel, power, and food prices. Exports, during April, 2014, have grown by 5.26% and imports declined by 15%. This has lowered the trade deficit during April 2014 to USD 100.85 billion, compared to the deficit of USD 176.72 billion recorded during the same period last year.

The Government initiated a slew of policy reforms in a number of areas to improve the business climate. In its continued effort towards improving the tax regime and tax administration, Government of India constituted a 'Forum for exchange of views between the Industry Groups and the Government on tax related issues and disputes', under the chairmanship of Dr. Parthasarathi Shome. The Forum identified 29 issues in direct taxes and 47 issues in indirect taxes, that merited clarifications or amendment of procedures. Several circulars and notifications have been issued by the Government to this effect in the recent past. These measures are expected to have positive impact on the business environment.

The Companies Act, 2013 provides for a major overhaul in Corporate Governance norms for all companies. In alignment with these provisions, the Securities and Exchange Board of India (SEBI) has issued a Circular on a new Code of Corporate Governance in April, 2014 for Listed Companies.

This will usher in a new era of corporate governance in times to come.

A provision has been made for unorganised and unincorporated business entities to register as a One Person Company (OPC) under Section 2(62) of the new Companies Act. I am happy to announce that the first OPC has been registered on 28th April, 2013. As OPCs are exempted from certain procedural formalities, it is hoped that small scale industries would be encouraged to convert themselves into OPC.

 A provision has been made for unorganised and unincorporated business entities to register as a One Person Company (OPC) under Section 2(62) of the new Companies Act. 



Implementation of the Companies Act, 2013: The Ministry had brought into force 98 Sections of the Companies Act, 2013 on 12.09.2013, Section 135 of the Act and Schedule VII relating to Corporate Social Responsibility (CSR) on 27.02.2014, and another 183 Sections and six Schedules of the Act on 26.03.2014. Thus, a total of 282 (of the 470) Sections of the Companies Act, 2013 have entered into force with effect from 01.04.2014. The Ministry has also issued new/revised Rules and e-forms to give effect to the provisions so far notified. It is expected that the remaining sections, other than those relating to the constitution of the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT), would be brought into force soon.

Roll-Out of New e-Forms: The Ministry has successfully rolled out the Companies Act, 2013 on its e-governance platform. Forty-six new e-forms along with detailed instruction kits to assist in filling the forms, have been provided on the MCA-21 portal for easy reference of stakeholders. A separate section on Frequently Asked Questions (FAQs) has been updated for guiding stakeholders to fill up the forms correctly. Stakeholders can contact the Helpdesk "Corporate Seva Kendra" for any query relating to Company Registration, e-filing, View Public Document (VPD) and Director Identification Number (DIN) on telephone No. 0124-4832500, Mobile No. +91-9259720983 and e-mail: appl.helpdesk@mca.gov.in. The document, mapping e-forms prescribed under the Companies Act, 2013 with e-forms prescribed under Companies Act, 1956, is also uploaded on the Ministry's website. Filing of the new e-forms has begun with effect from 28.04.2014.

CCI Amends Combination Regulations: The Competition Commission of India (CCI) amended the Combination Regulations vide Notification dated 28.03.2014 to, inter alia, simplify and provide greater clarity on the application of the combination provisions of the Competition Act, 2002 and the Combination Regulations. Some of the important provisions in respect of recent amendments include:

- To provide greater certainty on the requirement of filing notice, it has been clarified that the notification requirement shall be determined with respect to the substance of the transaction, and structure of transaction(s) having the effect of avoiding notice shall be disregarded;
- Item (10) of Schedule I of the Combination Regulation is deleted with a view to avoid ambiguity and uncertainty regarding insufficient local nexus and effect on markets in India;
- Considering the nature of cases and the resources deployed by the Commission, as well as the assistance provided to parties, it has been decided to revise the fee, from Rs. 10 lakh to Rs. 15 lakh for Form I, and from Rs. 40 lakh to Rs. 50 lakh for Form II;
- It has been decided to delete regulation 29 which was perceived to impose an additional condition in respect of preferring appeal in matters relating to combinations; and
- Similar to Form I, now the regulations do not require verification on each page of Form II.

SEBI Issued New Code of Corporate Governance for Listed Companies: In alignment with the provisions of the Companies Act, 2013, Securities and Exchange Board of India (SEBI) revised Clause 49 of the Equity Listing Agreement related to Corporate Governance, vide Circular date 17.04.2014. These changes will come into force from 1st October, 2014. The new code aimed at improving transparency and disclosure standards of listed companies in India. Some of the important changes are as follows: (1). It is mandatory for companies to put in place a whistleblower

policy, and establish a process through which employees can report to management their concerns about unethical behavior, (2). Companies are required to set up a Nomination and Remuneration Committee that would decide remuneration for the top management, (3). A person shall not serve as an independent director in more than seven listed companies (4). An independent director is eligible to hold office for a term up to five consecutive years on the Board of a company, and can be reappointed for another five consecutive years, etc.

First OPC Registered: The Companies Act, 2013 provides for "One Person Company" (OPC) as an alternative model to the "Sole Proprietorship" form of a business organization. It is expected that this model would encourage small and medium enterprises/business organizations in the unorganized sector with the concept of limited liability, and open avenues for more favorable banking facilities. All provisions relating to private companies would apply to an OPC, unless otherwise specially excluded. However, procedural formalities such as conducting annual general meetings and meetings of Board of Directors, are not applicable to OPCs.

On 28.04.2014, one OPC namely "Vijay Corporate Solutions One Person Company Private Limited" was registered as the first OPC under section 2(62) of the Companies Act, 2013. It has an authorized capital of Rs. 1 lakh, and is registered under "Community, Personal & Social Services sector" in Delhi.

Registration of Companies under the new Act: Two new companies were registered as Companies Limited by shares under the Companies Act, 2013 on 28.04.2014 with a total authorized capital of Rs. 3 lakh in the category "Business Services". They are located in Andhra Pradesh and Haryana.

First Working Group Meeting on Competition during RCEP: A delegation under the aegis of Department of Commerce with a representative of MCA, participated in the fourth round of trade negotiations of the Regional Comprehensive Economic Partnership (RCEP), held in Nanning, China, during 31.03.2014 – 04.04.2014. Shri Anil Kumar Bhardwaj, Director, Ministry of Corporate Affairs, participated in the first meeting of the Working Group on Competition. India submitted a non-paper at the Working Group meeting, putting forth various issues to be included in the Chapter on "Competition".



Shri Anil Kumar Bhardwaj, Director, Ministry of Corporate Affairs, participated in first meeting of Working Group on Competition during the Regional Comprehensive Economic Partnership held in Nanning, China.

Investor Protection and Awareness: Ministry of Corporate Affairs has launched a new search facility on its website for unpaid and unclaimed amounts lying with the companies. Investors can visit the web page www.iepf.gov.in and obtain information regarding such amounts by providing any of the following combination:

- i. Investor Name, Country, State
- ii. InvestorName and Company
- iii. Folio Number as per certificate
- iv. Investor Name, Type of Investment, Company
- v. Investor Name and Father/Husband Name

General Circulars and Public Notices: The Ministry of Corporate Affairs has issued three General Circulars concerning administration of the Companies Act, 2013 and one Public Notice in the month of April, 2014 (for further details, visit our website: <http://mca.gov.in>).

A. General Circulars:

(1) Provisions of the Companies Act, 2013 as notified till date vis-à-vis the corresponding provisions of the Companies Act, 1956:

The Ministry has notified a total of 282 Sections of the Companies Act, 2013. However, certain corresponding Sections and parts of the Companies Act, 1956 shall continue to remain in force. The **General Circular No. 07/2014 dated 01.04.2014** has provided a list of provisions of Companies Act, 2013 notified, with the corresponding provisions of Companies Act, 1956, and the remaining provisions of the Companies Act, 1956 that remains in force. Some of the important provisions of the Companies Act, 1956 that remain in force until further orders include:

- definition of 'contributory' (Section 428),
- jurisdiction to try offences (Section 622),
- alteration of articles by special resolution (Section 31(1)&(2A)),
- redemption of irredeemable preference shares, etc. (Section 80A(1)&(2)),
- further issue of capital (Section 81(4) to (7)),
- share capital to stand increased where an order is made under Section 81(4) (Section 94A),
- debenture trust deed (Section 117B(4)),
- appointment of debenture trustees and duties of debenture trustees (Section 17C (4)&(5)),
- provisions as to resolutions for appointing or removing auditors (Section 225(3)),
- removal of directors (Section 284(4)),

- investigation of ownership of company (Section 247(1A)),
- application for winding up of company or an order under section 397 or 398 (Section 243),
- continuation of pending legal proceedings (Section, 577)

(2) Clarification regarding commencement of provisions related to maintenance of books of accounts:

The Ministry has received requests for issuing clarifications with regard to date of commencement of provisions related to maintenance of books of accounts and preparations/adoptions/filing of financial statements, auditor's reports, Board's report etc. under the Companies Act, 2013. It has been clarified by the Ministry that financial statements, auditors report and Board's report in respect of financial years that commenced prior to 01.04.2014 shall be governed by the relevant provisions/Schedules/Rules of the Companies Act, 1956, and that in respect of financial years commencing on or after 01.04.2014, provisions of the Companies Act, 2013 shall apply [**General Circular No. 08/2014 dated 04.04.2014**].

(3) Availability of e-Forms:

The Ministry has made available 46 e-forms including three General e-forms, for filing by stakeholders with effect from 28.04.2013. 3 General e-Forms would be used for filing 17 attachments. Details of these 17 attachments are given in Annexure 'A' attached to the said Circular. It is proposed to make these 17 attachments as separate e-Forms in due course. These forms can be used for seeking AGM extension, company liquidation, persons or Directors charged or specified for the purpose of Section 2 (60) of the Companies Act, 2013, or for filing petitions to Central Government [**General Circular No. 09/2014 dated 23.04.2014**].

B. Public Notice:

(1) Single Phase Roll-out of e-Forms: It has been decided to have a single phase roll-out of all e-forms for convenience rather than a staggered roll out as notified earlier. Accordingly, all e-forms were made available for upload with effect from 28.04.2014.

LIST OF RULES NOTIFIED UNDER COMPANIES ACT, 2013 (All effective from 01.04.2014)

Sl. No	Particulars of Rules	Effective Date
1.	Companies (Specification of definitions details) Rules,2014	01.04.2014
2.	Companies (Accounts) Rules, 2014	01.04.2014
3.	Companies (Meetings of Board and its Powers) Rules,2014	01.04.2014
4.	Companies (Declaration and Payment of Dividend) Rules,2014	01.04.2014
5.	Companies (Audit and Auditors) Rules,2014	01.04.2014
6.	Companies (Inspection, Investigation and Inquiry) Rules,2014	01.04.2014
7.	Companies (Registration Offices and Fees) Rules,2014	01.04.2014
8.	Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014	01.04.2014
9.	Companies (Incorporation) Rules,2014	01.04.2014
10.	(i) Companies (Prospectus and Allotment of Securities) Rules,2014 (ii) Companies (Issue of Global Depository Receipts) Rules,2014	01.04.2014 01.04.2014
11.	(i) Companies (Miscellaneous) Rules,2014 (ii) Companies (Adjudication of Penalties) Rules,2014	01.04.2014 01.04.2014
12.	Companies (Acceptance of Deposits) Rules,2014	01.04.2014
13.	Companies (Authorized to Registered) Rules,2014	01.04.2014
14.	Nidhi Rules,2014	01.04.2014
15.	Companies (Appointment and Qualification of Directors) Rules,2014	01.04.2014
16.	Companies (Management and Administration) Rules,2014	01.04.2014
17.	Companies (Share Capital and Debentures) Rules,2014	01.04.2014
18.	Companies (Registration of Foreign Companies) Rules,2014	01.04.2014
19.	Companies (Registration of Charges) Rules,2014	01.04.2014
20.	Companies (Corporate Social Responsibility Policy) Rules, 2014	01.04.2014

Review of Corporate Sector:

- A.** As on 27.04.2014, the number of companies registered under the Companies Act, 1956 stood at 13.95 lakhs. Of these, 2.72 lakh companies have been closed and 28,408 companies are in the process of being closed. As many as 1.42 lakh companies have not filed their Annual Returns/ Balance Sheets (i.e., Annual Statutory Filings) for more than three consecutive years and, hence, are classified as 'dormant'. In other words, there are about 9.51 lakh active companies, including 1.33 lakh companies which were incorporated within the preceding eighteen months (not due for filing).
- B.** 762 companies were registered under the Companies Act, 1956 during April, 2014. Of these, 755 Companies were registered as Companies Limited by Shares with authorized capital of Rs. 166.58 crore, and seven Companies Limited by Guarantees with zero authorized capital. This includes one Central Public Sector Undertaking, HLL Infra Tech Services Limited, with authorized capital of Rs. 5 lakh. Under the category of companies registered as limited by shares, Delhi had maximum number of registrations (222) followed by Maharashtra (122) and Andhra Pradesh (79). Economic activity-wise maximum number of companies (299) were registered under "Business Services".
- C.** Registration of companies under the Companies Act, 2013 commenced with the roll-out of the new e-forms on 28.04.2014. Three new companies (including a One Person Company) were registered under the Companies Act, 2013 on 28.04.2014 with the authorised capital of Rs. 4 lakh. While the OPC was registered under "Community, Personal & Social Services", other two companies were registered under "Business Services".

For more statistical details about the growth of the corporate sector, the reader is invited to the Monthly Information Bulletin on Corporate Sector, at URL: mca.gov.in/MinistryV2/InformationBulletin.html

Major Events Attended by Senior Officials of the Ministry:

1. Shri Naved Masood, Secretary, Ministry of Corporate Affairs chaired a meeting of the Coordination and Monitoring Committee on Vanishing Companies on 25.04.2014 at New Delhi.
2. Shri M.J. Joseph, Additional Secretary delivered the Key Note address to the PHD Chamber on 17.04.2014 on "New Initiatives of SEBI and MCA in Corporate Governance". He was the Guest of Honour at the conference.



Shri M.J. Joseph, Additional Secretary, Ministry of Corporate Affairs, delivering the Keynote Address at the National Conference on "New Initiatives of SEBI and MCA in Corporate Governance" organised by the PHD Chamber at New Delhi on 17.04.2014.

3. Smt. Renuka Kumar, Joint Secretary, Ministry of Corporate Affairs, belonging to IAS-1987 Batch, Uttar Pradesh Cadre, completed her deputation under the Central Staffing Scheme and was relieved from this Ministry with effect from 30.04.2014.

Major activities at IICA:

1. **IICA and SCCI Organised a Session on CSR Rules:** Indian Institute of Corporate Affairs (IICA) in collaboration with Swedish Chamber of Commerce India (SCCI) organised an 'Information and Q&A Session: CSR Rules under Section 135 of the Companies Act 2013' on 23.04.2014 at SCCI's Office, Business Sweden, Chanakapuri, Delhi. A large number of organisations participated in the session.
2. **Induction Training Programme for ICLS Probationers:** The 1st phase induction training for 4th Batch of ICLS probationary officers started in December, 2013 and continued till April, 2014. During this period the probationary officers underwent class-room courses, attachments with various institutions viz. National Institute of Securities Markets (NISM), National Institute of Financial Management (NIFM) and Corporate Visits. The topics covered during 1st phase of training mainly related to Corporate Laws and Accounts. Visits were also arranged to the offices of RD (North), ROC, Delhi & Haryana and OL, Delhi.
3. **Workshop-cum-Training Programme on the Companies Act, 2013, Rules and e-forms:** Indian Corporate Law Service (ICLS) Academy has conducted a two-day training programme on the Companies Act, 2013, Rules and e-forms for 225 ICLS Officers of Ministry of Corporate Affairs working in the offices of Registrar of Companies (ROC) & Regional Director (RD) in India. The training program was conducted during April 8-9, 2014 and April 24-25, 2014.
4. **Mid-Career Training Programme for ICLS Officer (STS level):** A five day mid-career Training Programme for ICLS Officer (STS level) of Ministry of Corporate Affairs was conducted during 31.03.2014 to 04.04.2014. Eleven ICLS Officer (STS level) participated in this training programme. The topics covered in this training programme related to processing of different forms, Company Law, Accounting Standard, Corporate Governance etc.

Major Activities at CCI:

1. Shri Ashok Chawla, Chairperson, Competition Commission of India (CCI), Smt. Smita Jhingran, Secretary and Dr. Sanjay Kumar Pandey, Joint Director (Law) participated in 13th ICN Annual Conference during April 22 – 25, 2014 in Marrakech, Morocco.
2. Thirteen Officers of CCI participated in the training on Parliamentary Processes and Procedures organized by Bureau of Parliamentary Studies and Training during April 22 – 25, 2014.
3. In the state of Maharashtra, Yashwantrao Chavan Academy of Development Administration (YASHADA), Pune has been designated as the knowledge partner to provide institutional support. In order to chalk out future course of action, a preliminary meeting between YASHADA and CCI officers under the Chairmanship of Shri Anurag Goel, Member of CCI was held on 22.04.2014 in CCI.