

Company Law Settlement Scheme, 2000

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Company Law Settlement Scheme, 2000

Ministry of Law, Justice and Company Affairs (Deptt. of Company Affairs), Noti. No. dated May 31, 2000, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 31st May, 2000, pp. 5-12, No. 368 [F. No. 1/5/2000-CL-V} Whereas the Central Government has decided to make a Scheme namely, the Company Law Settlement Scheme, 2000 for granting immunity from prosecution and compounding the period of delay involving in filing certain documents under the Companies Act, 1956 (1 of 1956); Now, therefore, in exercise of the powers conferred by clause (b) of Section 637-B read with Section 637 of the said Act, the Central Government hereby notifies the following Scheme, namely :

1. Short title and commencement :-

- (1) This Scheme may be called the Company Law Settlement Scheme, 2000.
- (2) It shall come into force on the 1st day of June, 2000.

2. Definitions :-

In this Scheme, unless the context otherwise requires,

- (a) "Act" means the Companies Act, 1956;
- (b) "company" means all companies registered under the Act and

includes Government companies and companies incorporated outside India to the extent to which the Act is applicable;

(c) "declarant" means the company making the declaration under this Scheme and includes an officer of such company as defined in Clause 30 of Section 2 of the Act in relation to the offence mentioned in the declaration filed under this Scheme;

(d) "designated authority" means the Registrar of Companies having jurisdiction over the registered office of the company on the date of notification;

(e) "offence" means the non-compliance with the provisions of the Act in relation to the filing of any documents specified in the Act in respect of non-compliance of which a fine or imprisonment or both has been prescribed but shall not include any non-compliance referred to in Clause 8 of this Scheme;

(f) All other words and expressions used and not defined under this Scheme, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Settlement of offences :-

Subject to the provisions of this Scheme, any company may make a declaration along with proof of payment of prescribed fee under acknowledgement on or after the 1st June, 2000 but on or before 5.00 p.m. of 31st August, 2000 to the designated authority in respect of any offence committed under the Act and seek settlement of the offence so committed.

4. Declaration to be filed by the applicant with the Registrar :-

The declaration under the Scheme shall be made to the designated authority, having the jurisdiction, in Form A.

5. Time and manner of payment of fees for seeking immunity under the Scheme :-

The declarant shall pay lump sum amount based on the period of delay and the nominal filing fees as per Schedule X to the Act, apart from the lump sum amount as stated in the table given below : The amount payable shall be deposited along with a challan form in any of the designated branches of Punjab National Bank or by way of Pay Order/Demand Draft payable to the Registrar of Companies. Any sum paid for seeking immunity under the Scheme shall not be refundable under any circumstances.

6. Withdrawal of appeal against prosecution launched for the offences :-

If the company has filed any appeal against any notice issued for violation of the provisions under the Act in respect of which declaration is made under this Scheme, the declarant shall withdraw the appeal and furnish the proof of such withdrawal along with the declaration.

7. Order by designated authority granting immunity from the penalty and prosecution :-

The designated authority shall consider the declaration and upon being satisfied shall pass an order in writing inter alia stating the reasons for granting the immunity.

8. Scheme not to apply to certain offences :-

(1) This Scheme shall not apply to the filing of Form No. 5 relating to increase in authorised capital of the company for which specific interest has to be paid for filing the intimation for the delay and such other provisions of the Act where specific approval of the Company Law Board or Central Government is to be obtained: Provided that the Scheme shall apply to such intimations which are to be submitted to Registrar of Companies along with a prescribed fees but for which no specific form has been specified.

(2) This Scheme shall also not apply for non-compliance of the provisions of the Act where the penalty of imprisonment only has been prescribed.

9. 9 :-

After passing the appropriate order, Registrar of Companies shall inform the concerned Court or Regional Director or Company Law Board before whom the matter for prosecution or compounding application is pending in appropriate cases.