

Company Law Settlement Scheme 2011

Ministry of Corporate Affairs vide its latest General Circular No.59/2011 has introduced a Company Law Settlement Scheme 2011 (hereinafter referred as CLSS 2011) to regularize the belated filings of the documents with the Ministry of Corporate Affairs. The fundamental intention behind launching of this scheme is to save the defaulting companies from the threat of prosecution & debarring from filing electronic documents with the Ministry. Moreover, the Ministry also wishes to give an opportunity to the defaulting companies to make their default good by filing such belated documents with payment of additional twenty five per cent fees than Actual Additional Fee.

The key highlights of the CLSS 2011 are summarized as under:

1. Enforcement of the Scheme:

The scheme shall come into force on the 12th Aug 2011 & shall remain in force up to 31st Oct, 2011. Hence, in the first instance, the scheme is valid for the period of Eighty One (81) Days only.

2. Applicability of the Scheme:

The CLSS 2011, allows the defaulting companies to file the belated documents which are due for filing till 30.06.2011. Further the scheme applies to only following documents which are not filed in time with the ministry namely:

Form 20 B – Form For Filing annual return by a Company having Share Capital.

Form 21 A – Particulars of Annual Return for the Company not having share capital.

Form 23 AC & 23 ACA - Form for Filing Balance Sheet & Profit & Loss Account.

Form 66 - Form For Submission of Compliance Certificate with the Registrar.

3. Withdrawal of pending appeal against prosecution launched for the offences against any competent court:

To file any document under CLSS 2011, the defaulting companies are required to withdraw the existing litigations related with that document, pending with the Competent Courts by making a written application to them.

The defaulting companies are also required to furnish proof of such application made with the competent Courts before initiating any document under CLSS 2011.

4. Application of issue of Immunity certificate:

After duly filing the documents under CLSS 2011, the defaulting companies are required to apply with the Designated Authority- Registrar Of Companies for the issue of immunity certificate under CLSS 2011.

The Ministry has provided the prescribed form for the perusal & Updation for the defaulting companies & the stakeholder

5. Issue of Immunity Certificate by the designated authority:

The designated authority shall consider the application & upon being satisfied shall grant the immunity certificate in respect of the documents

6. Post Immunity Steps:

After granting the immunity, the Registrar Concerned shall withdraw the prosecutions, if any, with the competent courts.

Conclusion:

The Ministry has taken a welcome step by launching the CLSS 2011 & somehow has given significant opportunity to the defaulting companies to appear good in the eyes of the Ministry. Since the scheme is valid only for 81 days in the first instance, the defaulting companies have to rush hard to comply with the scheme. At the end of the day, it would be highly advisable for the defaulting companies to file the documents under CLSS 2011 on early basis.