



Shifting of Powers from National Company Law Tribunals to Regional Directors

The Ministry of Corporate Affairs operates through Regional Directors (RDs) who are higher echelons in company law administration overseeing the functioning of Registrar of Companies (ROC) in a specified region. While ROCs are present in almost in all the States, the offices of RD are situate only in Mumbai, Kolkata, Chennai, New Delhi, Ahmedabad, Hyderabad and Shillong. For the States of Tamilnadu and Kerala, the RD in Chennai has jurisdiction and for the States of Telangana, Andhra Pradesh and Karnataka, the RD in Hyderabad has jurisdiction.

Central Government has powers under Section 458 of the Companies Act, 2013 (the Act) to confer upon RD certain powers and functions under the Act. By a Notification S.O. 6225(E) dated 18th December 2018, the Central Government has conferred upon RDs the powers to grant approvals under two more provisions of the Act viz., the power to grant approval under the first proviso to clause (41) of Section 2 (and the power to grant approval under the second proviso to sub-section (1) of Section 14 of the Act.

Section 2(41) of the Act requires every company incorporated under the Act or under any previous company law to have uniform financial year, meaning the period beginning from 01st April of one year and ending with the 31st day of March every subsequent year.

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I-CUBE NEWSLETTER

WEDNESDAY, 02 JANUARY 2019

A company incorporated outside India can also have a subsidiary or an associate company in India. In order to enable the company incorporated outside India to consolidate its accounts, in consonance with the relevant applicable laws, an option to change the financial year of the Indian company from the April-March format to any other convenient format is enabled. This can be done with the prior approval of Central Government which is now delegated to RDs. Earlier this power was with the National Company Law Tribunal (NCLT). Henceforth, if a company prefers to have as its financial year, different from April-March format for the sole purpose of consolidation of accounts, it must apply to jurisdictional RD.

Section 14 of the Act states that if a company alters its Articles of Association in order to convert its status from that of a public company into a private company, it requires approval of RD. Hitherto this power was with the NCLT. Hereafter if a public company desires to alter its status to become a private company, it has to apply to jurisdictional RD.

Where, as on the date of the Notification aforesaid, any application under the above provisions is pending disposal before any bench of NCLT, such application will be disposed of only by the NCLT.

While the change is only in respect of the authority granting the approval, the process to be followed is also specified by way of insertion of Rules 40 and 41 under Companies (Incorporation) Rules, 2014. Shifting the approving authority from NCLT to RD will also aid definitely hasten the process and will further the ease of doing business.

CENTRAL OFFICE	BRANCH OFFICE	BRANCH OFFICE
Indus Chamber No.101, Govt Arts College Road, Coimbatore – 641018. Tel No: - (0422)2302868, 4952868 Email: info@ksrandco.in Linked in: gene@ksrandco.in	Flat No.1, 26/27, Venkatesham Flat, Gopal Street, T-Nagar, Chennai – 600 017. Tel No: - (044)24337620, Email: chennai@ksrandco.in	S-311, 3 rd Floor, South Block, Manipal Centre, No.47, Dickenson Road. Bangalore – 560042, Tel No: - (080)25323232 Email: bangalore@ksrandco.in

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