

## National Company Law Tribunal Bar Association (NCLTBA)

E -2, (LGF), Kailash Colony, New Delhi – 110 048

Tel: +11 41039797-98

Email : [ncltbarassociation@gmail.com](mailto:ncltbarassociation@gmail.com)



03.01.2021

Smt. NirmalaSitharaman  
Hon'ble Minster for Finance  
and Minster of Corporate Affairs  
Misntery of Coporate Affairs  
3<sup>rd</sup> Floor, ShatriBhawan  
New Delhi 110001

### Representation for further extension of Companies Fresh Start Scheme (CFSS) 2020

Respected Madam,

The Ministry of Corporate Affairs introduced several schemes (Companies Fresh Start Scheme, 2020 (CFSS) General Circular No. 30/2020, LLP settlement Scheme 2020 General Circular No. 31/2020, Scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013 General Circular No. 33/2020 and Clarification on holding of annual general meeting (AGM) through video conferencing (VC) or other audio visual means (OAVM) General Circular No. 32/2020} valid from 01.04.2020 to 30.09.2020 to enable companies to complete their pending compliances. The same was extended till 31.12.2020.

It is pertinent to note that the said schemes were launched for 'ease of doing business' and 'compliance' and the same was the need of the hour and much appreciated. However, due to the sudden outbreak of Covid-19 and lockdown as announced by the Govt. of India and for several other reasons the benefit of the said scheme could not be taken by various stakeholders. Some of such reasons are as follows :

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#### Vice President

P Nagesh

#### Secretary General

SaurabhKalia

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Nesar Ahmed

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Brijesh D. Mathur

GP Madaan(Professional  
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Ranjana R. Gawai

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#### A. Pendency of revival applications u/s 252 of Companies Act,

2013 – Several Companies have filed revival application and

the same were pending before the various benches of

Hon'ble NCLT all over India. After the announcement of

lockdown all physical hearings of the matters were deferred

and only hearing of urgent matters was taken up by NCLT.

The NCLT has only started hearing of regular matters from

01.12.2020. During the said time hearing of urgent matters

was not taken up and so the hearing of revival matters was

not taken up on urgent basis. Only few matters in which

urgent application was filed were taken up. Due to the same

revival of company was not complete and the benefit of

CFSS was not taken up. Some other instances on the said

issue, due to which benefit of CFSS was not taken up were

as follows :

1. NCLT not taking up regular hearing of revival matters as prior to 01.12.2020, only urgent matters were being taken up by NCLT.

2. Delay in reports of Income Tax Department and the Report from respective ROC's in the said revival matters u/s 252 of the Act- In several matters the govt. department like Income Tax and ROC has not filed their report on time. Especially the Income Tax department owing to be scattered all over the country has not been filing reports on time thereby delaying the hearings in the matter.

3. Shortage of Hon'ble Members and several Hon'ble Members being working from outstation has led to delay in finalisation of order and receipt of orders by the companies.

4. Due to pandemic situation even staff of NCLT was not in full force, leading to delay in receipt of orders.

5. Certified copy was difficult to receive for ROC filing owing to pandemic & social distancing norms being followed, leading to delay in the filing of documents.



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6. In several cases, the Hon'ble NCLT has imposed cost to be deposited in PMNRF, however challans of such cost deposited also takes days to be generated and thus the same leads to delay in compliance for revival. The same was noticed especially in last working days of NCLT prior to 24.12.2020, thus the benefit of CFSS could not be taken till 31.12.2020.

7. Hon'ble NCLT has priority of several matters like Insolvency matters under IBC, 16 and other urgent Company matters and due to infrastructural difficulties, at times disposal of revival matters takes time, thus leading to delay. Several matters of revival u/s 252 are still pending before NCLT Benches.

Apart from the above difficulties being faced by Hon'ble NCLT, there have been several other reasons due to which the benefit of the scheme has not been availed.

### **B. Difficulty of Director Identification Number (DIN) :**

1. DIN of lakhs of directors are still deactivated on account of non-filing of annual returns which makes it difficult to carry on business
2. Activation of DIN through was based on seeking benefits from the CFSS, however the same could not be achieved so;

### **C. Lockdown and Pandemic:**

1. The scheme was launched from 01.04.20, which was the during the period of lockdown. Due to the same, for several months situation of lockdown continued or people were working from home. Ready documents could not be preceded with clients and thus finalising the Accounts and making of the Balance Sheets and complying with the GST issues due to which the Balance Sheets got delayed and still are in finalisation stage.

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2. Several offices were closed and / or Limited staff was working, thus the same could not be complete.
3. In many cases the filings of the previous year are pending because of financial crunch and the people wanted to take the benefit of the same but due to pandemic the same could not be done.
4. Delay in Change of Status from ROC for Strike off to Active.

#### D. Technical glitches on MCA Portal:

- Portal has not been working normally for whole of December 2020 with either SRN not getting generated despite amount getting debited or not going at all.
- Even the site did not respond to sending email on gmail and sometimes on a particular Mobile Network making impossible to get the OTP's and get the KYC done

#### E. Huge Financial burden on the companies: As the Balance Sheets have not been finalised due to Pandemic, it was not at all possible to file Form DPT 3 as the figures were not available. By not extending the scheme, huge penalties will be levied on the companies who are already bearing the brunt of Pandemic.

#### F. Prosecution on the Directors: Facing prosecution as compliance cost will be very exorbitant and beyond the paying capacity. The same would also lead to increase in litigation.

In these circumstances, though the intention behind the CFSS, 2020 is laudable and much appreciated. However, due to the various ground realities the corporates have not been able to take benefit of the scheme. Therefore in these difficult times the extension of such schemes is imperative and paying such hefty penalties & fines will not be in best interest of all stakeholders.



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Thus we request your good office to extend the CFSS, 2020 and other related relaxations till **31.03.2020** in the interest of all stakeholders.

Dr. UK Chaudhary  
President

SaurabhKalia  
Secretary General

CC:

1. ShriAnurag Singh Thakur  
Minister of State for Finance and  
Minister of State for Corporate Affairs
2. Shri Rajesh Verma  
Secretary  
Ministry of Corporate Affairs  
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