General Circular No. 38/2014

No. 1/22/2013-CL-V
Government of India
Ministry of Corporate Affairs

5th Floor, "A" Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi
Dated: 14th October, 2014

To

All Regional Directors,
All Registrars of Companies.

Subject: Right of persons other than retiring directors to stand for directorship – Refund of deposit under section 160 of the Companies Act, 2013 in certain cases.

Sir,

Clarity has been sought by companies registered under section 8 of the Companies Act, 2013 (corresponding to section 25 of Companies Act, 1956) about the manner in which the amount of deposit of rupees one lakh received by them under sub-section (1) of section 160 of the Companies Act, 2013 (Act) is to be handled if the depositor fails to secure more than twenty five per cent of the total valid votes. It has been noted that the relevant provision is silent on such issue.

2. The matter has been examined in the Ministry and it is clarified that in such cases, the Board of directors of a section 8 company is to decide as to whether the deposit made by or on behalf of the person failing to secure more than twenty-five percent of the valid votes is to be forfeited or refunded.

3. This issues with the approval of the competent authority.

Yours faithfully

(KMS Narayanan)
Assistant Director (Policy)

Copy to:-

1. e-Governance Section and web contents Officer to place this circular on the Ministry website

2. Guard File