General Circular No. 05/2018

F.No. 02/04/2017-CL-V
GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

5th Floor, 'A' Wing Shastri Bhawan,
Dr. R.P. Road, New Delhi
Dated: 17.05.2018

To,

All Regional Directors/ All Registrars of Companies,
All Stakeholders.

Subject: Clarification-Condonation of Delay Scheme, 2018-reg.

Sir,

In continuation of General Circular No. 16/2017 dated 29.12.2017, General Circular No. 02/2018 dated 28.03.2018 and General Circular No. 03/2018 dated 27.04.2018 on the subject cited above, it is stated that this Ministry has received representations from stakeholders raising doubts regarding filing requirements of e-CODS, 2018, in such cases, where petitions have already been filed before NCLT under section 252 of the Companies Act 2013, during the currency of the scheme and orders are pending before the NCLT and whether such struck off companies can file CODS upon obtaining orders for the same even after 01.05.2018.

2. The matter has been examined and it is clarified that as per para 4(v) of the General Circular No.16/2017 dt 29.12.2017, which states "*In the event of defaulting companies whose names have been removed from the register of companies under section 248 of the Act and which have filed applications for revival under section 252 of the Act up to the date of this scheme, the Director's DIN shall be re-activated only NCLT order of revival subject to the company having filing of all overdue documents*". It, is therefore, hereby directed that in such cases the Registrar(s) of Companies shall raise a ticket through Change Requirement Form (CRF) on MCA21 portal along with copy of NCLT order and E-governance shall activate DIN of the directors of such struck off companies that have been revived through NCLT to file e-CODS, 2018. However, the directors whose DINs are proposed to be activated through CRF should not be directors on any other company which has been stuck off under section 248(1) of the Act (other than the one revived through NCLT order as mentioned in CRF). This may be ensured by the ROC before raising CRF with E-governance.

3. Further, the Registrar(s) of Companies are directed to ensure that CRFs are raised in such cases only after thorough scrutiny of the NCLT orders and ensuring that such struck off companies had filed overdue documents before filing e-CODS, 2018 and had filed petitions before the NCLT during the validity of CODS Scheme.

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

Yours faithfully,

(KMS. Narayanan)
Assistant Director (Policy)
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