

ONE CONCEPT ONE SLIDE

Web Series – April 2020/25 Topic: E-adjudication Mechanism

604-605, PP City Centre Road No. 44, Pitampura, New Delhi – 110 034

011 4905 8720, 4905 8721

(T) +91 98181 88855

<u>info@apacandassociates.com</u> www.apacandassociates.com









APAC & ASSOCIATES LLP Company Secretaries

E-ADJUDICATION MECHANISM

Ministry of Corporate Affairs – Compliance Monitoring System (MCA-CMS)

WHAT?

An online facility for digital hearings, appointments and processing of adjudication matters

WHY REQUIRED?

- 1.De-clogging of NCLT
- 2. Ease of doing business
- 3. Boost investor sentiments
- 4.Increase inflow of FDI
- 5. Encourage start-ups

HOW?

*By decriminalisation of offences, fixing & reducing fines and transferring powers to the Adjudicating officers (AO) {Registrar of Companies ("RoC") as notified]

WHEN?

It was notified vide the Companies (Adjudication of Penalties) Amendment Rules, 2019 on February 19, 2019

For Proxy, return of financial statements, no. of directorships & additional proposed vide Companies Amendment Bill, 2020 - Buy back, Maintenance of Books of Accounts, Disclosure of Interest by Director, provisions w.r.t Charges, Section 8 etc.

- HOW: Email by RoC
- <u>TO WHOM</u> Defaulting Co. and officers in default
- <u>CONTENTS</u> Nature of Non-compliance, penal provision, Max. penalty

Issue E-show cause notice (SCN)

Online reply

- <u>HOW:</u> Reply to SCN at https://mcacms.gov.in
- <u>CONTENTS</u> CMS (as on order), reply in 500 words (or attach .pdf file) & OTP sent to registered e-mail
- No reply-penal action

15-30 days

further extension – 15 days

10 working days

IMPLEMENTATION

- •<u>Call for Physical</u> <u>Appearance</u> by AO, *OR*
- •Defaulter himself after mentioning <u>in</u> <u>online reply</u>

Hearing

*Order after ROOBH

- HOW duly dated & signed including reasons of physical appearance
- <u>TO WHOM</u> Defaulting Co., officers in default, CG & on its website

60 days

- HOW: In Form ADJ
- **CONTENTS:** Grounds of appeal & Order CTC
- <u>TO WHOM:</u> Regional Director
- PROCESS: Notice Hearing – Order – CTC to Co. AO & CG

Appeal

1 – 15 days **30 days**

(90 days, if physical appearance)

Important Points:

- 1. Penalty by RoC atleast min. penalty prescribed / fixed sum as mentioned in relevant section
- 2. Online penalty through MCA portal and thereby credited to Consolidated Fund of India

#FACTORS REGARDED FOR ORDER: Size & nature of business of Co., injury to public interest, nature and repetition of default, amount of disproportionate gain or unfair advantage, wherever quantifiable, amount of loss caused to investors or creditors



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OTHER VIDEOS - APAC



1. IEPF (Aug'19)



2. Board Governance (Sep'19)



3. SBO (Sep'19)



4. #startup (Sep'19)



5. Secretarial Standard – 1 (Sep'19)



6. Secretarial Standard –2 (Sep'19)



7. Board's Report (Oct'19)



8. TReDS (Oct'19)



9. Corporate Social Responsibility (Oct'19)



10. Related Party Transactions (RPT)(Oct'19)



11. Statutory Registers (Nov'19)



12. Incorporation of Companies (Nov.' 19)



13. Secretarial Audit (Nov.'19)



14. Labour Code (Dec.'19)



15. LEI (Dec.'19)



16. Independent Directors' Proficiency Test (Dec.'19)



17. Conversion of LLP/Partnership Firm to Company (Jan.' 20)



18. Methodology-Secretarial Audit for Private Companies (Jan.' 20)



19. One Person Company (OPC) (Jan.' 20)



20. Voluntary liquidation of Company/LLP (Feb.'20)



21. Single Master Form-Companies (Direct Investment) (Feb.' 20)



22. Insider Trading Regulations (Feb.'20)



23. IBC Overview (Mar.'20)

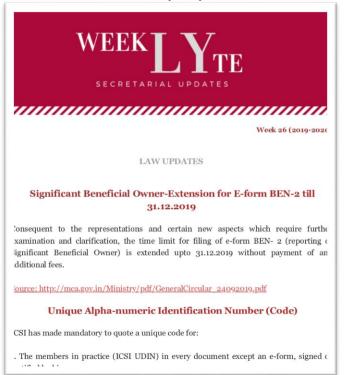


24. IBC-Initiation of CIRP (Mar.'20)

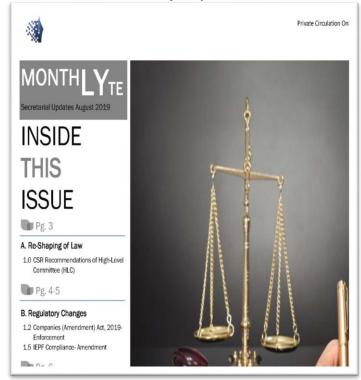


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