HVJ & Associates
CHARTERED ACCOUNTANTS

HVJ COMMUNIQUE

123rd Edition - January 2024

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Dear Professional Colleagues,

"Every year you make a resolution to change yourself. This year make a resolution to be yourself."

The New Year brings us hope and with it, the drive within us to work towards success.

There is nothing like a new year to seek new things, learn new things. There is always an opportunity to start again if old ways are not working, look for better ways of doing it and start again afresh.

We at **HVJ** strive to work with continued dedication, hard work, and passion with better ways to give best services to our esteemed clients' needs and to serve our clients the best and help them achieve their business goals. We work on building trust in our clients by providing best quality services, we make consistent effort and work passionately to serve our clients' needs and complete the work on time effectively and efficiently.

This year may God bestow our family with enough strength and unity to overcome all rains and storms in our life.

Wishing you all a cheerful New year 2024 !!!

We are delighted to bring you our **123rd** edition of HVJ Communique which briefs about various amendments/circulars/clarifications in Goods and Service Tax, Income Tax, RBI and Companies Act 2013. We are always in the forefront to apprise our clients, associates as well as those seeking knowledge with recent updates on various laws and regulations. We have consolidated various regulatory announcements and amendments by respective regulators, along with our analysis, for the month of January 2024.

Happy Reading !!!

With warm regards,

CA Sudheer Javali
Partner
B. Com, FCA, DISA

THE COMPENDIUM

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  1. Goods and Services Tax Act, 2017
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FLUCTUATIONS SUMMARY

Foreign Exchange Fluctuation

Currency	As on 30th Nov 2023	As on 31st Dec 2023	Fluctuation
US	83.35	83.25	↓
GBP	105.89	105.97	↑
EURO	91.48	91.89	↑
JPY	0.56	0.59	↑

Stock Market Fluctuation

Stock Exchange	As on 30th Nov 2023	As on 31st Dec 2023	Fluctuation
Sensex	66,988.44	72,176.28	↑
Nifty	20,133.15	21,700.15	↑

Compliance Calendar – JAN 2024

Sl. No.	Particulars	Due Date
Compliance Calendar for GST		
1	GSTR 7 is a return to be filed by the persons who is required to deduct TDS	10-01-2024
2	GSTR 8 is a return to be filed by the persons who is required to deduct TCS	10-01-2024
2	GSTR-1 (Monthly) for December 2023	11-01-2024
3	GSTR-1 (IFF) (Quarterly) for December 2023 as per QRMP Scheme	13-01-2024
4	GSTR-6 (Monthly) for December 2023 (ISD)	13-01-2024
5	GSTR -5 for December 2023 (Non-Resident Taxable person)	13-01-2024
6	GST CMP -08 for December 2023	18-01-2024
7	GSTR – 5A for December 2023 (OIDAR Service provider)	20-01-2024
8	GSTR-3B (Monthly) for December 2023	20-01-2024
9	GSTR-3B (Quarterly) for December 2023 as per QRMP Scheme (Southern States of India)	22-01-2024
10	GSTR-3B (Quarterly) for December 2023 as per QRMP Scheme (Northern States of India)	24-01-2024
11	GSTR-11 for UIN Registered Person for December 2023	28-01-2024
12	Opting for QRMP Scheme for the last Quarter	31-01-2024
Compliance Calendar for ESI, PF & PT Payments		
1	PF Payment for the month of December 2023	15-01-2024
2	ESI Payment for the month of December 2023	15-01-2024
3	Professional Tax Due Date December 2023	20-01-2024
4	Payment of the Labour Welfare Fund (LWF) contributions (Annual)	15-01-2024
Compliance Calendar for Income Tax Act, 1961		
1	Payment of TDS/TCS deducted /collected in Dec 2023	07-01-2024
2	Due date for issue of TDS Certificate for tax deducted under section 194M, 194-IA, 194IB, 194S in November 2023	14-01-2024
3	TCS Return Filing for 3rd Quarter (1st Oct to 31st Dec 2023)	15-01-2024
4	Quarterly furnishing of 15G/15H declaration (1st Oct to 31st Dec 2023)	15-01-2024
5	Furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in December 2023	30-01-2024
6	TDS Return Filing for 3rd Quarter (1st Oct to 31st Dec 2023)	31-01-2024
Compliance Calendar for Companies Act, 2013& LLP Act 2008		
1	AOC 4 (for companies filing returns for the first time)	30-01-2024

Statutory Updates

Goods and Services Tax Act, 2017

1. **Date extension for reporting opening balance for ITC reversal**

   In order to facilitate the taxpayers in correct and accurate reporting of ITC reversal and reclaim thereof and to avoid clerical mistakes, a new ledger namely Electronic Credit and Re-claimed Statement was introduced on the GST portal. This statement was made available to help the taxpayers in tracking their ITC that has been reversed in Table 4B (2) and thereafter re-claimed in Table 4D (1) and 4A (5). Kindly click here for the detailed advisory provided earlier.

   Now to facilitate taxpayers further, the opportunity to declare opening balance for ITC reversal in the statement has been extended till 31st January 2024.

   Kindly note that after declaring the opening balance for ITC reversal, only three amendment opportunities post the declaration will be provided to correct declared opening balance in case of any mistakes or inaccuracies in reporting.
   Facility to amend declared opening balance for ITC reversal will be available till 29th February 2024.
   https://www.gst.gov.in/newsandupdates/read/619

2. **Extension of Time Limit for Order Issuance under Section 73(9) for Tax Recovery for FY 18-19 and 19-20 -** GST Notification – 56/2023:

   The Government, exercising its authority under section 168A of the CGST Act, 2017, in conjunction with section 20 of the IGST Act, 2017, and section 21 of the UTGST Act, 2017, has announced modifications to existing notifications through Notification 56/2023.

   These amendments specifically extend the time limits as outlined below:

   For the Financial Year 2018-19: The deadline to issue orders related to tax recovery for this fiscal year has been extended until April 30, 2024.

   For the Financial Year 2019-20: The deadline for orders regarding tax recovery in this fiscal year has been extended until August 31, 2024.

   https://taxinformation.cbic.gov.in/

3. **Extension of due date for filing of return in FORM GSTR-3B for the month of November 2023 for the persons registered in certain districts of Tamil Nadu.**

   In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in FORM GSTR-3B for the month of **November, 2023 till the twenty-seventh day of December, 2023**, for the registered persons whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu and Kancheepuram in the state of Tamil Nadu and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017
   https://taxinformation.cbic.gov.in/view-pdf/1009957/ENG/Notifications

4. New feature in GST portal gstpmt-07

The Goods and Services Tax Network (GSTN) has introduced a new feature on the GST Portal, empowering users to address grievances related to payments through the Grievance against Payment (GST PMT-07) system.

To access this functionality, users can log in to the GST Portal and navigate to the "Services" section. From there, they should proceed to the "Payments" category, where they can find the option to file a "Grievance against Payment (GST PMT-07)."

https://tutorial.gst.gov.in/userguide/payments/Filing_Payment_Related_Grievances_(PMT-07)_Manual.htm

5. Taxpayers may be allowed to file revised GST returns from April 2025

The government is contemplating the introduction of a revised GST return filing option, potentially by April 2025, which aims to benefit taxpayers by allowing rectification of returns and reducing litigation, pending approval from the GST Council and a significant upgrade of the GST Network

6. Advisory on the functionalities available on the portal for the GTA taxpayers:

In a significant development, the Goods and Services Tax Network (GSTN) has rolled out a highly anticipated feature enabling the online filing of Annexure-V on the GST Portal.

Specifically tailored for newly registered Goods Transport Agencies (GTAs) opting for Forward Charge, this new functionality streamlines the process for users. This innovative facility allows users to seamlessly upload manual Annexure-V submissions made to the jurisdictional office before the introduction of the online filing option. For GTAs providing services and intending to pay tax under Forward Charge for the current financial year and beyond, it is imperative to file the Annexure V Form by January 28, 2024.

https://www.gst.gov.in/newsandupdates/read/619

7. GST Amnesty scheme appeals applicable till January 31, 2024

In a bid to assist taxpayers grappling with Goods and Services Tax (GST) issues, the Central Board of Indirect Taxes and Customs (CBIC) has introduced a significant amnesty scheme. This initiative allows specified GST taxpayers to lodge appeals against GST tax demand orders until **January 31, 2024.**

Income Tax Act, 1961

1. Govt. increases interest rate for Sukanya Samriddhi scheme from 8.0% to 8.2% for Q4 of FY 2023-24

OFFICE MEMORANDUM F.NO.1/4/2019-NS

The Govt. has notified the interest rates on various Small Savings Schemes for the fourth quarter of the financial year 2023-24, starting from 1st January 2024 and ending on 31st March 2024. The interest rate remains unchanged for the 4th quarter, except for the 3-year time deposit, which has been raised from 7.0% to 7.1% and the 'Sukanya Samriddhi Account Scheme', which is enhanced from 8.0% to 8.2%.

2. CBDT notifies ITR 1 and ITR 4 for Assessment Year (AY) 2024-25 / Financial Year (FY) 2023-24

Notification No. 105/2023-Income Tax Dated: 22nd December 2023

Highlights of the forms.

a. No change in the applicability of ITR forms - The form to be used by a taxpayer to file the Income-tax return for the AY 2024-25 will be same as applicable for AY 2023-24.

b. New tax regime is now the default tax regime; taxpayers must choose to opt-out to prefer old regime.

c. New column added to claim deduction under section 80CCH.
The Finance Act 2023 added a new Section 80CCH, which states that individuals enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after 01-11-2022 will be eligible for a tax deduction for the total amount deposited in the Agniveer Corpus Fund.

d. "Receipts in Cash" column added to ITR-4 to claim enhanced turnover limit.
The Finance Act, 2023 has enhanced the turnover threshold limit from Rs. 2 crores to Rs. 3 crores for opting for the presumptive taxation scheme under Section 44AD if the receipts in cash do not exceed 5% of the total turnover or gross receipts for the previous year. It is also provided that the meaning of cash would include the cheque or a bank draft, which is not an account payee.

Similarly, Section 44ADA was amended to enhance the threshold limit of gross receipts from Rs. 50 lakhs to Rs. 75 lakhs, if the receipts in cash do not exceed 5% of the total gross receipts for the previous year.

To give effect to the above amendments, the CBDT has amended ITR-4 to include a new column of "receipts in cash" for disclosing cash turnover or cash gross receipts under the Schedule BP.

https://incometaxindia.gov.in/communications/notification/notification-105-2023.pdf

3. CBDT Extends Income Tax Refund Claim Processing Deadline

F. NO. 225/132/2023/ITA-II dated 01-12-2023.

In view of pending grievances of taxpayers related to the issue of refund for AYs 2018-19, 2019-20 and 2020-21, the Board has decided to allow the processing of electronically filed income returns with refund claims for AYs 2018-19, 2019-20, and 2020-21 beyond the specified timeframe in section 143(1), subject to administrative approval, excluding specific exceptions. The intimation of processing under section 143(1) of the Act can be sent to the assessee concerned by 31.01.2024.

However, this relaxation shall not be available to the following returns:

a) Returns selected in scrutiny,
b) Returns remain unprocessed, where either demand is shown as payable in the return or is likely to arise after processing it, and
c) Returns remain unprocessed for any reason attributable to the assessee
https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/628/Order-us-119-dated-01-1212023-extension-of-timeline-for-processing-of-returns-dated-04-12-2023.pdf

4. Notification 102/2023: Godavari River Management Board Tax Exemption

The Central Board of Direct Taxes (CBDT) has notified 'Godavari River Management Board' for the purposes of clause (46) of section 10 of the Income-tax Act, 1961, with respect to the following incomes:

a) Grants/Subsidies received from Central Government.

b) Grants/Subsidies received from State Governments of Andhra Pradesh and Telangana; and

c) Interest from bank deposits, including savings accounts.

The exemption will be applicable subject to certain conditions. Further, the exemption shall be applicable retrospectively for assessment years 2020-2021 to 2023-2024.

https://incometaxindia.gov.in/communications/notification/notification-102-2023.pdf

5. CBDT issues guidelines under section 194-O of the Income-tax Act, 1961

Circular No. 20 of 2023 F. No. 370142/43/2023-TPL

Summary of the Circular

Section 194-O mandates tax deduction by ECOs in transactions facilitated through their digital platforms. In cases involving multiple ECOs, the responsibility for compliance depends on whether the seller-side ECO is the actual seller or not. The guidelines outline the scenarios and the respective ECOs responsible for TDS.

Treatment of Fees and Charges: The circular addresses the inclusion of convenience fees, commission charges, and logistics/delivery fees in the "gross amount" for TDS calculation.

Additionally, it clarifies that payments to platform providers for facilitating transactions are part of the gross amount if linked to the transaction. Practical examples illustrate these scenarios.

GST and State Levies: Clearing the ambiguity around GST, state levies, and other taxes, the circular aligns with previous clarifications. Tax deduction under section 194-O should be on the amount credited without including GST, state levies, or other taxes if separately indicated in the invoice. The treatment of various taxes is explained in detail.

Purchase-Returns and Adjustments: Similar to section 194-Q, circular 20/2023 provides insights into the adjustment process for purchase-returns. It specifies that if tax has already been deducted before the purchase-return, adjustments can be made against the next transaction with the same seller in the same financial year.

Treatment of Discounts: The circular distinguishes between seller, buyer ECO, and seller ECO discounts. It guides on how these discounts impact the calculation of the "gross amount" for TDS. The examples provided offer clarity on scenarios involving discounts.

https://incometaxindia.gov.in/news/ciruclar-20-2023.pdf

6. CBDT notifies 'Ravenna Investments Holding B.V' for Section 10(23FE) exemption:

The Central Board of Direct Taxes (CBDT) has notified the pension fund "Ravenna Investments Holding B.V." for exemption under section 10(23FE). The fund shall be eligible to claim the exemption in respect of the eligible investments made by it in India between 27-12-2023 and31-03-2024, subject to prescribed conditions, including furnishing of return of income under section 139(1) and various compliance forms like Form No. 10BBB, Form No. 10BBC.

7. I-T uses fine-tooth comb to nab both employers & employees for TDS-claims mismatch:

The Income Tax (I-T) department is using a fine-tooth comb to nab discrepancies in the tax deducted at source, or TDS, by companies and the declarations by its employees in the annual I-T returns. What is underway is a line-wise reconciliation of the two sets of numbers under different heads - house rent allowance, medical insurance, outgo on home loans, tax saving investments under 80c etc.

8. Knowledge Update - Payments to Micro and Small Enterprises now covered u/s 43B of the Act.

As per the amendment made by the Finance Act, 2023 where payment to 'micro' or 'small' vendor registered under MSME Act, is not made within period specified u/s 15 of MSMED Act, 2006, the expense from MSME shall not be allowed under Income tax laws.

Section 15 of the MSMED Act mandates payments to micro and small enterprises within-

- If agreement stipulated 20 days, then payment is to be made within 20 days of invoice.
- If agreement stipulated 60 days, then payment is to be made within 45 days of invoice.
- If there is no agreement, then within 15 days of invoice.

That the proposed amendment to section 43B of the Act will allow the payment as deduction only on payment basis.

ii. **SECTION 43B**

(a)43B. Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of "(h) any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006,".

(b) shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him.

iii. **MSMED ACT, 2006**

SECTION 15, LIABILITY OF BUYER TO MAKE PAYMENT:

(a) Where any supplier, supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

(b) Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

(c) Appointed Day 2(b) "appointed day" means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

(d) Explanation. For the purposes of this clause, -

(i) "the day of acceptance" means, -
the day of the actual delivery of goods or the rendering of services; or
where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day on which the supplier removes such objection.

(ii) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services.

iv. **SECTION 16, DATE FROM WHICH AND RATE AT WHICH INTEREST IS PAYABLE:**

Where any buyer fails to make payment of the amount to the supplier, as required under section 15, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at three times of the bank rate notified by the Reserve Bank.

v. **SECTION 23. INTEREST NOT TO BE ALLOWED AS DEDUCTION FROM INCOME.**

Notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction.

vi. **Definition of Micro, Small and Medium: (As amended by vide notification F.No. 21(5)/2019-P&G/Policy (Pt-IV)] dated 26th June 2020)**

- a micro enterprise, where the investment in plant and machinery or equipment does not exceed one crore rupees and turnover does not exceed five crore rupees.
- a small enterprise, where the investment in plant and machinery or equipment does not exceed ten crore rupees and turnover does not exceed fifty crore rupees.
  and
- a medium enterprise, where the investment in plant and machinery or equipment does not exceed fifty crore rupees and turnover does not exceed two hundred and fifty crore rupees.

vii. **Conclusion:**

Purchase and Expenses incurred on or after 1st February every year is to be checked if relates to micro or small then payment has to be made within time as per MSMED Act, 2006. (It is assumed that purchase and expenses incurred before 1st February shall be anyhow paid up to 31st March.) Otherwise purchase/ expense shall be disallowed and shall be allowed in the year of actual payment, however interest to be booked for all MSME if payment is not made within the time frame and the same is disallowed FOREVER

Companies Act, 2013

1. **FAQs on mandatory demat of securities by private companies**

   a. **Background**

   Recently, MCA vide notification dated October 27, 2023 ('Present Amendment'), has extended such a requirement to private companies. The MCA has inserted Rule 9B in PAS Rules providing for mandatory dematerialization of securities of private companies.

   b. **Applicability of Present Amendment**

1. **Which companies are covered by the Present Amendment?**

   The amendment is applicable to all private companies, excluding small companies and government companies.

2. **Whether the Present Amendment is applicable to small companies?**

   The present amendment specifically excludes small companies. Small companies, as defined under

   Section 2 (85) of the Act means a company, other than a public company, having paid up share capital not exceeding Rs. 4 crores and turnover not exceeding Rs. 40 crores. However, a holding company or a subsidiary company, a company registered under section 8, a company or body corporate governed by any special Act will not be considered as a small company. Accordingly, such companies will have to comply with the mandatory demat norms.

3. **What if a company ceases to be a small company after 1st April 2023?**

   The position is required to be analysed as on the last day of a financial year. If a company ceases to be a small company after 1st April 2023 it will be required to comply with the provisions within 18 months from the closure of the financial year i.e. from 31st March 2024 and be required to comply by 30th September 2025.

4. **What are the filing requirements?**
   Private companies will be required to file the required Form PAS-6 to the ROC within sixty days from the conclusion of each half year. Therefore, for the half-year period from April to September the due date to file Form PAS-6 will be 29th November and for the period from October to March the due date will be 30th May.

5. **Is there any stamp duty to be paid at the time of initial transaction for demat?**
   Stamp duty is payable at the time of issue of shares as per the provisions of the Stamp Act, 1899, there is no stamp duty payable on initial transaction for demat of shares.

6. **What will be the consequence if the company fails to comply with the provisions of the Present Amendment?**
   There is no specific penalty specified under Section 29 of the Act and therefore, penalty as per

7. **Section 450 of the Act will apply.**
   As per Section 450 of the Act, company and every officer of the company who is in default will be liable to a penalty of Rs. 10,000. In case of continuing contravention, with a further penalty of Rs. 1,000 for each day after the first during which the contravention continues, subject to a maximum of Rs. 2,50,000 in case of a company and Rs. 50,000 in case of an officer who is in default or any other person.

RBI / FEMA

1. **RBI plans to introduce a new category of money changers operating as Forex Correspondents of ADs through agency model.**
   The framework for licensing of Authorised Persons (APs) under FEMA, 1999 was last reviewed in March 2006. The RBI has decided to rationalise and simplify the licensing framework for APs. Now, RBI has proposed to introduce a new category of money changers who may conduct business through an agency model by becoming Forex Correspondent of Authorised Dealers. The review aims to meet the emerging requirements of the rapidly growing Indian economy and achieve operational efficiency.

2. **RBI exempts certain transferors from the requirement of Minimum Holding Period (MHP) on loan transfer.**
   CIRCULAR NO. RBI/2023-24/99 DOR.STR.REC.60/21.04.048/2023-24
   In order to develop secondary market operations of receivables acquired as part of 'factoring business', the RBI has decided that transfer of such receivables by eligible transferors will be exempted from MHP requirement. However, exemption shall be available only when the residual maturity of such receivables, at the time of transfer, should not be more than 90 days, and the transferee conducts proper credit appraisal of the drawee of the bill, before acquiring such receivables.

3. **RBI modifies MSME lending norms; directs banks to follow Udyam classification for Priority Sector Lending:**

   CIRCULAR NO. RBI/2023-24/100 FIDD.MSME & NFS.BC.NO.13/06.02.31/2023-24

   The RBI has notified amendment in Paragraph 2.2 of the Master Direction- Lending to Micro, Small & Medium Enterprises (MSME) Sector. Now, it has been directed that for Priority Sector Lending (PSL) purposes, banks shall be guided by the classification recorded in the Udyam Registration Certificate (URC). All the MSMEs are required to register online on the Udyam Registration portal and obtain 'Udyam Registration Certificate'.

Knowledge Capsule

Physical Verification of Registered Office: A Move by Indian Government Towards Elimination of Shell Companies

The new Rule 25B of the Companies (Incorporation) Third amendment Rules, 2022 sets out the transparent process to be followed by the ROC to carry out physical verification of a registered office of a company. This process for physical verification is outlined below:

1. Presence of Independent Witness: The physical verification shall be done in the presence of two independent witnesses of the locality where the registered office is situated;
2. Assistance of Police: ROC may seek the assistance of local police for such verification;
3. Cross Verification: for such on-site verification the ROC shall carry the documents filed on MCA 21 in support of the address of the registered office of the company. These documents shall then be cross-verified with the copies of supporting documents of such address collected during the said physical verification;
4. Authentication: For the purpose of additional security, the copies of supporting documents gathered during the said physical verification, will be authenticated by the occupant of the property where the said registered office is situated;
5. Pictures: The Registrar shall take pictures of the Registered office while conducting the physical verification.

Details required during the physical verification. The companies should be prepared with following documents for the physical verification of the registered office of the Company.

- Details of the person available during the physical verification (Name, Father's name, Residential address, Relation with the Company);
- Self-attested copy of ID card of the person available;
- Copy of agreement/ownership, rent agreement/ NOC of Registered Office of the Company from owner/tenant/lessor.

Despite the fact that Section 12(9) of the Companies Act, 2013 granted authority to the Registrar of Companies to physically verify address of the Company, there was no established process for doing so prior to the insertion of Rule 25B. The uncertainty surrounding the entire verification procedure has been eliminated by the introduction of new rule in the existing provision. This process will assist in eliminating discretion of authority and establishing a transparent system with regard to physical verification process. The companies can now prepare themselves to comply with the requirements set out in the process of the registered office verification.

This amendment is a significant step and the foreign entities that have subsidiary entities in India need to carefully evaluate when using third parties providing registered office services in India.

Further, the Ministry is strongly emphasizing on its compliance in letter and spirit. The Companies will be required to maintain physical office as by this amendment the ROC has been conferred the power to remove the name of the Company in case of non-compliance of section 12 of the Act.

DO COMPANIES USING SHARED SPACE NEED TO WORRY ABOUT PHYSICAL VERIFICATION?

Now the Companies must ensure that a functional registered office is maintained and passes the test of physical verification, in accordance with the Companies Act, 2013. However, at this stage there is not much clarity on the usage of virtual registered office address by the coworking spaces where no physical space is allocated to the company but the only identification of the Registered office is through Lobby-listing. After verification, if the ROC determines that the address is not capable of receiving and acknowledging all communications and notices, the ROC shall initiate action for strike off. This means that shared address or coworking spaces where there is a system in place to receive and acknowledge all such communications and notices and carrying out its business in a fair and proper manner (not as a shell / vanishing company), may continue to act as registered office for the companies.

CONCLUSION

This positive development is in alignment with the initiative of MCA to identify illegal business operations in India and prevent money laundering. Furthermore, the adoption of Rule 25B gives the government another tool in its arsenal for conducting scrutiny and cracking down on shell firms in light of its ongoing efforts and heightened inspection through the Enforcement Directorate in fight against money laundering and terrorism. This will also help the stakeholders such as banks, financial institutions, or other creditors to reach the authenticated registered address of the company in case of defaults.

Help us improve - We hope you find this Journal informative and of continued interest. We welcomeyour feedback at info1@hvj.co.in

Thanking You,

Team HVJ