

Indian government raises FDI cap in Defence and opens up Railways

The Indian government has raised the foreign direct investment (FDI) cap in Defence sector from 26 per cent to 49 percent. This liberalization is however subject to a condition that the Indian owners exercise the management control. This is aimed at encouraging domestic production as India remains one of the world's largest importers in Defence sector.

On the other hand, the government has also allowed 100 per cent FDI in railway infrastructure projects, while opening up some railway operations to foreign investment. Infrastructure projects include segments such as electrification, signalling, high speed and suburban corridors, etc.

Some of the stakeholders and commenters are of the view that the government should have further raised the limit in the Defence sector and are disappointed by this conservative approach undertaken by the government with respect to FDI in Defence. Some of them hope that the government would further increase the cap later in this year. FDI in Railways is welcomed, as it is expected to increase the Gross Domestic Product (GDP). Some of the Asian economic powerhouses are said to be interested to invest in the Railways.

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Company Law Settlement Scheme regarding filing of annual return: A one time opportunity

The Ministry of Corporate Affairs (MCA) vide circular no. 34/2014 dated 12th August, 2014 has furnished one time opportunity to defaulter companies by introducing the Company Law Settlement Scheme, 2014 ("Scheme") to file their annual returns and financial statements. MCA has received representations and requests from various stakeholders to provide one time opportunity/ a grant of transitional period, for filing the annual returns and other annual records, as the Companies Act 2013 lays down a stricter regime for defaulting companies. For instance, Section 451 provides for enhanced fines for repeated defaults. Additionally, the provisions of Section 164 (2), inter alia provides for disqualification of directors in case a company has not filed financial statements or annual returns for any continuous period of three financial years (which is now applicable to all kinds of companies). It was observed that a large number of companies have not filed their annual returns and therefore MCA has provided this one time opportunity in the form of the Scheme.

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India Juris

International Desks

Asia & Australia
M.P.Mehani
asia@indiajuris.com

Americas
Shiv U Idnani
americas@indiajuris.com

Under the Scheme, the government has condoned the delay in filing the Annual Returns and Financial Documents with the Registrar, granted immunity from prosecution and charged a reduced additional fee of 25% of the actual additional fees payable as per Section 403 read with Companies (Registration Offices and Fee) Rules, 2014 for filing those belated documents. Other salient features of the Scheme are:

- Scheme shall come into force on 15th August 2014 and shall remain into force till 15th October 2014.
- Any defaulting company is permitted to file belated documents which were due for filing till 30th June 2014 in accordance with this Scheme.
- Defaulting Company shall pay statutory filing fees as prescribed under Companies (Registration Offices and Fee) Rules, 2014 along with additional fees of 25% of the actual additional fee payable on the date of filing each belated document.
- An application for seeking immunity in respect of belated documents filed under the Scheme may be electronically in the e-Form CLSS-2014, after the documents are taken on record or accepted by the Registrar. Such an application (for receiving immunity certificate) can be made after 1st September 2014 but not later than three months from the date of closure of the Scheme.

Furthermore, this Scheme also provides an opportunity to inactive companies to get themselves declared as a 'dormant' company' by filing a simple application at reduced fees.

UK & Europe
Sameer Rastogi
europe@indiajuris.com

Africa
Surabhi Tyagi
africa@indiajuris.com

Middle East
Dinesh Sabharwal
middleeast@indiajuris.com

India Contact

New Delhi
newdelhi@indiajuris.com

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Clarification concerning Liberalized Remittance Scheme

Reserve Bank of India (RBI) vide Circular RBI/2014-15/171 A. P. (DIR Series) Circular No. 19 dated August 11, 2014 has drawn attention to a clarification made by it under Circular A.P. (DIR Series) Circular No. 5 dated July 17, 2014, according to which the Liberalized Remittance Scheme can also be utilized for purchasing property outside India.

It is now clarified that in the light of above, the requirement of post facto reporting [as per A.P. (DIR Series) Circular No. 32 dated September 04, 2013] stands withdrawn.

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CSR expenditure can also be made on Slum Area

Development

The MCA on 6th August 2014 issued a notification about amendment in Schedule VII of the Companies Act 2013, with respect to Section 135, which is about Corporate Social Responsibility (CSR). Prior to this amendment there were ten items/ areas upon which the companies could spend their CSR budgets under Section 135. Vide this amendment an eleventh area of “Slum Area Development” has been included in the Schedule and now activities related to this area/ item can also be incorporated by the companies in their CSR Policy.

The term “Slum Area Development” shall mean that any area declared as such by the Central Government or any state government or any other competent authority under any other law for the time being in force.

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Statutory fee for filing Trademark revised

Ministry of Commerce, Department of Industrial Policy & Promotion, has revised the statutory fee for filing Trademark vide notification dated 1st August, 2014. Now on making an application for registration of a Trademark (Form TM-1) Rs. 4,000/- per class is payable to the Trademark Registrar, which is Rs. 500 more from the old fee of Rs. 3,500/- per class.

Also, statutory fee for application of the expedited examination under rule 38(1) for the registration of a trade mark is raised to INR 20,000/- from INR 12,500/- for every application in single class.

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