

Highlights

- Model Framework for Guidelines on Direct Selling issued
- A Framework for Mediation and Conciliation notified
- Norms for remuneration to managerial person revised
- Frequently Asked Questions on GST
- Internet Broadcasting included under the Copyright Act, 1957

Corporate Brief

➔ *Model Framework for Guidelines on Direct Selling issued*

Ministry of Consumer Affairs has come out with "Model Framework for Guidelines on Direct Selling" (**'the Guidelines'**), to regulate the business of 'Direct Selling' and 'Multi Level Marketing' (**'MLM'**) and to strengthen the existing regulatory mechanism on Direct Selling and MLM and to prevent fraud and protect rights and interests of consumers. Highlights of the Guidelines are: (a) According to the Guidelines, 'Direct Selling' means marketing, distribution and sale of goods or providing of services as part of network of Direct Selling other than under a pyramid scheme. Such sale of goods or services should not occur through a 'permanent retail location' to the consumers. (b) The Guidelines list out conditions for setting up and conduct of Direct Selling business *inter alia* including: (i) registration of Direct selling entity, (ii) maintenance of proper records of their business dealings, (iii) maintenance of proper and updated website with all the relevant details of the entity, contact information, its management, products, product information, price, complain redressal mechanism etc. (c) Every Direct Sellers are now required to execute a contract agreement in writing with Direct Sellers before enrolment describing all the material terms of participation. (d) The Guidelines have also stipulated certain obligations on Direct Sellers *inter alia* including the following: (i) Direct Sellers need to carry their identity card and should not visit the customer's premises without prior appointment/ approval. (ii) Direct Sellers should offer a prospective consumer accurate and complete explanations and demonstrations of goods and services, return policies, after sales services, terms of guarantee etc.

➔ *A Framework for Mediation and Conciliation notified*

MCA has notified the Companies (Mediation and Conciliation) Rules, 2016 (**'The Rules'**) enlisting setting up of panel of mediators and conciliators, qualifications for empanelment, procedure for disposal of matters etc. Highlights of the Rules are: (a) A panel of experts willing and eligible to be appointed as mediators or conciliators will be formed and will be placed on the website of the MCA. (b) Regional Director will invite applications from persons interested in getting empanelled as mediator or

conciliator every year during the month of February and update the Panel. The Panel will be effective from 1st of April of every year. (c) The mediator or conciliator will not be bound by the Indian Evidence Act, 1872 or the Code of Civil Procedure, 1908 while disposing the matter. They shall be guided by the principles of fairness and natural justice and shall have regards to the rights and obligations of the parties, usage of trade and circumstances of the dispute. (d) The role of mediator or conciliator will be to facilitate voluntary resolution of the dispute by the parties and communicate the view of each party to the other and to assist them in identifying issues and reducing misunderstandings. (e) Time limit for completion of mediation or conciliation set out in the Rules is 3 months from the date of appointment of expert(s) from the Panel. The mediation or conciliation process will be terminated on the expiry of such 3 months. [See MCA Notification F. No. A-45011/14/2016-Ad-IV]

➔ *Norms for remuneration to managerial person revised*

MCA has amended Section II of Schedule V of the Companies Act, 2013 (**'The Schedule'**) which deals with remuneration payable by companies to managerial person of public limited companies having no profit or inadequate profit without obtaining Central Government approval. Highlights of the amendments in the Schedule are: (a) The limits on managerial remuneration under the Schedule is doubled as follows: (i) For companies with effective capital of less than INR 5 crores, the limit of yearly remuneration is increased from INR 30 lakhs to INR 60 lakhs. (ii) For companies with effective capital of an amount between INR 5 crores to INR 100 crores, the limit is increased from INR 42 lakhs to INR 84 lakhs, (iii) For companies with effective capital of an amount between INR 100 crore to INR 250 crores, the limit is increased from INR 60 lakhs to INR 120 lakhs, and (iv) For companies with effective capital of an amount between INR 250 crore and above, the limit is increased to INR 120 lakh plus 0.01% of effective capital in excess of INR 250 crore. (b) If managerial person is functioning in a professional capacity, no approval of Central Government will be required if the following conditions are met: (i) Such managerial person do not have any interest, directly or indirectly, in the capital of the company or its holding company or any of its subsidiaries; (ii) There is no direct or indirect interest or any relation of such managerial person with the directors or promoters of the company or its holding company or any of its subsidiaries; and (iii) Such managerial person possesses graduate level qualification with expertise and specialized knowledge in the business of the company. [See MCA

Notification F.No. 1/5/2013 CL-V dated September 12th, 2016]

organizations also. [See DIPP Office Memorandum F.No. 14-35/2015-CRB/LU (IP VII) dated September 5th, 2016]

➔ *Frequently Asked Questions on GST*

Central Board of Excise and Customs has issued Frequently Asked Questions on GST covering 24 topics and answering over 500 questions (**the FAQ**) *inter alia* dealing with registration, valuation in GST, meaning and scope of supply, time of supply, e-commerce, input tax credit, job work, assessment and audit, refunds, demands and recovery, appeals, review and revision in GST, advance ruling, settlement commission, inspection, search, seizure and arrest etc. Some of the clarifications given under the FAQs are: (a) GST is a destination based tax on consumption of goods and services. It is proposed to be levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. (b) The following commodities are proposed to be kept outside the purview of GST- alcohol for human consumption, petroleum products, high speed diesel, natural gas and aviation turbine fuel and electricity. The existing taxation system (VAT and Central Excise) will continue in respect of the aforesaid commodities. (c) Centre will levy and administer CGST & IGST while respective states will levy and administer SGST. (d) Reverse charge mechanism will be applicable to supplies of both goods and services. (e) Person without GST registration can neither collect GST from his customers nor claim any input tax credit of GST paid by him. (f) In the GST regime, for any intra-state supply, taxes to be paid are the Central GST and the State GST. For any inter-state supply, tax to be paid is IGST which will have components of both CGST and SGST. (g) It is mandatory for all e-commerce operators and suppliers of goods/ services supplying through e-commerce to obtain registration in GST, irrespective of the value of supply made by them. Furthermore aggregators, owning and managing an electronic platform to enable potential customers to connect with persons providing service, for instance Ola cabs, are also required to get the registration in GST, irrespective of the value of supply made by them. [Source: [http:// www.cbec.gov.in](http://www.cbec.gov.in)]

➔ *Internet Broadcasting included under the Copyright Act, 1957*

DIPP issues Office Memorandum, to clarify that Internet Broadcasting is included under the purview of the Copyright Act, 1957. According to the Office Memorandum the provisions of section 31D of the Copyright Act, 1957 are not restricted to radio and television broadcasting organizations only but also covers Internet broadcasting

- HT Law Book:: Q & A(8/27/2016)
- HT Estates:: “Welfare Associations also have the right to complain against deficient services” (8/27/2016)
- HT Law Book:: Q & A(8/13/2016)
- HT Estates:: “Taking care of mortgaged property” (8/13/2016)
- ZEUS News August 2016(8/10/2016)
- Check These Documents Before Buying Directly From Developer:: (8/3/2016)

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