

LATEST ISSUES IN MCA

by Sri Henry Richard, ROC, A.P.

The year 2008 was a mixed bag of good and certain bad things. Certainly, the good things have over taken the bad things. Towards the end of 2008, the global melt down substantially affected every economy including India resulting in mass lay off, shutting down of plants, deflation and recession thus adversely augmenting poverty and consequential ill effects. It is the earnest hope of every person that the year 2009 will be an year of prosperity, all round economic growth, and improvement, in particular a year of prosperity for the corporate sector. The year 2008 also experienced several important developments some of which are briefly mentioned below :-

- Despite Global melt down in the second half of 2008, 5380 Companies were incorporated in the State of Andhra Pradesh during the year comprising of 5193 Private Companies with an Authorized Capital of Rs.18,72,11,21,000/- and 187 Public Companies with an Authorized Capital of Rs.6,76,02,00,000/-..
- There was successful passing of the Limited Liability Partnership Act by the Parliament. The formulation of rules and regulations is also reaching final stage. Our Hon'ble Minister Shri Prem Chand Guptaji announced that the first Limited Liability Partnership Firm is expected to be registered on 1-4-2009.
- The draft of the Companies Bill, 2008 was completed and introduced in the Parliament in October, 2008. It is our earnest expectation that the Bill will successfully go through and become an Act during the year 2009.
- The Ministry of Corporate Affairs inaugurated The Indian Institute of Corporate Affairs in September, 2008. The MCA will house the Central Registry after the Companies Bill, 2008 is passed. In addition, the Indian Institute of Corporate Affairs will also be conducting Training Programmes and offer Diploma Courses in association with certain foreign universities and institutes.
- MCA-21 has been growing into perfection during the year 2008. The Hon'ble Secretary to MCA has also started the idea of 2nd generation MCA-21 with the new concepts and ideas like Central Registry, enhanced focus on Compliance Management, introduction of Value Added Services (VAS) etc.

In short, the year 2008 has been a happening year and new ideas and thoughts were emerging on a daily basis. Several e-forms were redefined and re-engineered keeping pace with changing times. We are assured that this will be an ongoing happening in the year 2009 also.

It is important and necessary that before we enter the New Year 2009, we need to do an introspection with a view to eliminate deficiencies and move to a higher platform in 2009. This can be achieved by evolving certain New Year

Resolutions such as the following :-

- | Professionals can resolve individually to ensure perfection in online transactions. One of the declared objective of MCA is efficient Service Delivery. Recently, our Hon'ble Secretary had emphasized that any e-form filed should be approved within 15 minutes after receipt in the Back Office Portal. ROC can achieve efficient Service Delivery only with the cooperation of professionals like you. If you ensure filing of perfect e-forms without any defect, the Office of the Registrar of Companies can approve the e-form within 15 minutes after receipt of e-form in Back Office Portal and achieve the declared objective of MCA. If defective e-forms are filed, then the Office of the ROC will not be able to approve the e-forms resulting in protracted correspondence. For instance, a company can be incorporated within 15 minutes if all the documents like MOA, AOA etc. are perfectly drafted. More than 5000 e-forms are pending in the ROC, Back Office Portal for want of correction in e-forms. The professionals can also have the incorporation documents pre-checked with the concerned officer before uploading the same which will help in incorporation of a company within 15 minutes after receipt in the Back Office Portal.
- | Professional friends can resolve that they will encourage their clients to ensure prompt compliance. You are aware that the compliance rate in the State of Andhra Pradesh is very low. During the years 2006-07 and 2007-08, the compliance rate was only about 30%. In this year, the professionals can take proactive role to prevail upon their clients to file the Annual Returns and Balance Sheets promptly.
- | Professional friends can resolve to cooperate with ROC in the process of identification and elimination of defunct companies. The percentage of defunct companies in the State of Andhra Pradesh is very large. MCA has also given priority for elimination of defunct companies through suo-motu action u/s 560 of the Companies Act, 1956. You may kindly prevail upon your clients to accept the notices issued from the Office of the ROC, A.P u/s 560 of the Companies Act, 1956 and respond by filing required papers like Affidavits, Indemnity Bonds etc. along with a Balance Sheet certified by the Chartered Accountants showing the NIL Asset Liability position which will enable the Office of the ROC to strike off such companies as defunct companies u/s 560 of the Companies Act, 1956.

My sincere request to all my professional friends to lend wholehearted support to achieve the objective of having a wholesome, vibrant and efficient Corporate sector in the State of Andhra Pradesh.

Article