



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION

62
CELEBRATING
YEARS
1957-2018

CA Raghavendra Shetty
President

CA Kumar S Jigajinni
Secretary

Date: 9th August 2018

To,

Shri. Piyush Vedprakash Goyal
Hon'ble Union Minister of Finance, Railways
Coal and Corporate Affairs
Government of India
North Block
New Delhi - 110001

Hon'ble Sir,

Re: REPRESENTATION ON EXTENSION/ DEFERMENT AND RELAXATION OF E-FORM DIR3 KYC

The Karnataka State Chartered Accountants Association (R) (in short '**KSCAA**') is an association of Chartered Accountants, registered under the Karnataka Societies Registration Act, in the year 1957. KSCAA is primarily formed for the welfare of Chartered Accountants and represents before various regulatory authorities to resolve the professional problems faced by chartered accountants and business community.

We have written to your good selves many a times populating issues and possible solutions. Herein, we are presenting difficulties and hardship faced by the trade, consultants and directors at large pursuant to introduction of Form DIR-3 KYC and also, relating to adhering the timelines for filing of the forms within 31st Aug 2018. Having a wide outreach to Chartered Accountants, tax practitioners, trade bodies etc., and the pressing issues populated by them, KSCAA felt necessary to put forth these issues and seek your redressal mechanism to alleviate the pain caused as well as seek a reasonable extension of due date. We wish to present before you the following facts on the ongoings and public sentiment on the matter under two segments:

A] DIR-3 KYC- Hardships

- DIR-3 form has been in existence since way back and the prospective directors would have already uploaded PAN and address proof like Aadhar and Passport. We understand the necessity of having passport related details of the directors in the wake of the events wherein few high-profile directors having turned fugitive and fled country. This section has been a marginal segment who have resorted to such ill practices.
- While the step is well received amongst the fraternity and the directors, the timing of such introduction is questionable. It is a well-known fact that the directors and companies rely heavily upon the Chartered Accountants and Company Secretaries.
- The sudden introduction of these form, out of the blue, calls for the practitioners to realign their work schedule to accommodate the form filings. It is important to note that the process requires

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collating of the data and certification of such forms and uploading. Many a times the directors are foreign directors and non-residents, and adhering the timelines is not an easy ask in the peak season for both the fraternities as well as the directors and companies, who are already mired with the compliance and audit obligations.

- The Chartered Accountants usually around this time are preoccupied with Tax audits, Company Audits, new incorporations as well as uploading of ROC annual forms, the due date spillover for income tax filing not helping the cause in any way. Company Secretaries as well are preoccupied with new incorporations, ROC annual forms. In this context, it will be a tough ask on the MCA webpage as well to support such an exercise now within such a short span of time.
- Completing this kind of entire exercise of updating the Directors KYC form through DIR3 KYC pan India basis will be a humongous ask for the companies, directors and professionals, especially non-compliance has penal provisions and bearing upon the filing of routine forms.
- Even the Supreme Court of India has taken a moderate view on linking of Aadhar with bank accounts and mobile phone numbers by extending the 31st March deadline indefinitely considering the data privacy concerns. Now, making Aadhar linkage mandatory with DIN while filing KYC is definitely an attempt indirectly, and will go against the law of the land. Further, it creates unnecessary hardships on directors who are in the process of obtaining Aadhar.
- The adherence of timelines assumption is quite far-fetched especially as the load on the MCA webpage would be increased on two counts, one all the stakeholders would be on the web page and two, the OTPs mobile and email and the timelines of such OTPs would keep both the professionals and directors on their toes and extending the working for professionals to time beyond normal hours to beat the traffic.
- Another pertinent issue is levy of late fee of Rs.5,000/- for delayed compliance. It seems extremely harsh especially in cases of prospective directors having DINs which are not linked any company.
- There are as many issues faced by the practising professionals on the LLP formation, closure of LLP etc., which are already discussed and deliberated in the public domain. We invite your kind attention to resolve those issues at the earliest to enable smooth functioning of these.

B) Suggestions:

The due date fixed for filing KYC before 31st August seems more than enough to comply but for various factors which are practically acting in concert against such compliance on the part of the directors, companies and practitioners. We have presented here in below our suggestions-

- DIR-3 KYC for the year 2018-19 be should be deferred to January 2019 keeping in view of efficiency of transacting and form filing without hindrance of blockage of DIN as it suits for the directors and professionals to plan efficiently for updation. Presently, professionals are already overburdened with compliances under GST, Income Tax and deadline for completing audit and annual filings under the Companies Act is around the corner.

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- This annual KYC exercise should be immediately dispensed with. Instead, it may be integrated with Annual Form AOC-4 which anyways capture similar information of directors. This will help ease compliance, reduce burden on IT infrastructure and avoid duplication of work for professionals and directors.
- Linking KYC exercise with Annual Returns will give enough head room to relook at the levy of late fees of Rs.5,000/-.

This write-up is on the back of representation received from directors, companies, trade bodies, who are in the thick of things and stakeholders who are perturbed with limited compliance time span.

We would be highly thankful if you could extend the due date well in advance, which would be very useful in planning the filings for the directors, companies and practitioners.

Thanking you,

Yours sincerely,

For **Karnataka State Chartered Accountants Association ®**

CA. Raghavendra Shetty
President

CA. Kumar S Jigajinni
Secretary

CA. Vijay Sagar Shenoy
Representation Chairman

CC To: Hon. Minister of State for Corporate Affairs, New Delhi