

Amendment in the Companies Act, 2013 vide notification dated 22 Jan 2020

Central Government appointed 22nd January, 2021 as the date on which certain provisions of the Companies Amendment Act, 2020 came into force which amended following provisions of the Companies Act 2013 , which are majorly powers of Central Government (CG) .

1. Definition of listed company is altered by adding a proviso that power is given to CG to define certain company as listed or not , in consultation with the Securities and Exchange Board of India- **Section 2(52)**;
2. Letter of Offer for the Right Issue can be kept open for less than 15 days as may be prescribed by CG- **Section 62 (1) (a) (i)**;
3. Power of CG to exempt any class or classes of persons from giving beneficial declaration - **Section 89 (11)**;
4. Exemption to Banking Company, NBFC and Housing Finance Company to file with Registrar any resolution passed to grant loans, or give guarantee or provide security in respect of loans given in the ordinary course of business – **Section 113(3) (g)** ;
5. Power of CG to mandate certain classes of unlisted companies (a) to prepare financial statements on a periodical basis in such forms as may be prescribed (b) obtain approval of the Board and complete audit or with limited review in such manner as may be prescribed and (c) file a copy with the Registrar within 30 days from completion of relevant period- **Section 129A** ;
6. With respect to CSR---(a) Companies are allowed to **carry forward excess amount** spent on CSR to be set off in the succeeding financial years (b) In case of default by the company to spend or transfer unspent to separate account , the **penalty** shall be twice the amount required to be transferred by the company or Rs.1 crore whichever is less, and penalty to every officer in default shall be 1/10th of the amount required to be transferred by the company or Rs.2 Lakh , whichever is less and (c) Companies CSR spending is limited to Rs.50 Lakhs then CSR committee is not required to be constituted mandatorily.- **Section 135** ;
7. Deletion of power of CG to exempt any class of foreign companies from any of the provisions of sections 380 to 386 and sections 392 and 393 - **Section 379** ;
8. Power of CG to exempt any class of Foreign Companies or Companies incorporated or to be incorporated outside India whether or not it has place of business in India from the applicability of the provisions of Chapter 22 of the Companies Act 2013 relating to matter of governance of companies incorporated outside India- **Section 393A** ;
9. CG may constitute more than 16 NCLAT (National Company Law Appellate Tribunal) and NCLAT shall not only hear appeals against Order of NFRA but also any direction, decision or order referred to in Section 53A of the Competition Act, 2002- **Section 410**;
10. CG have power to notify more Benches of NCLAT and where it sits for appeal against the Order in section 53A of the Competition Act, 2002 and section 61 of the Insolvency and Bankruptcy Code, 2016- **Section 418 inserted** ;
11. CG have power to establish or designate as many Special Courts as may be necessary for criminal offence under the Companies Act, 2013 except for punishment to employees or officers of the company for Wrongful Withholding of Property of the Company- **Section 435**;

12. Imposing lesser penalties for non-compliance of the Companies Act, 2013 by Small Companies, One Person Companies, Start-ups and Producer Companies and its Officers in default - **Section 446B** ;
13. Criminal offense shall not be ordered against any officer or employee of the Company for wrongful withholding of property of the Company if the court is satisfied that the company has not paid to that officer or employee any amount relating to provident fund, pension fund, gratuity fund or any other employees welfare fund maintained by the company or any compensation or liability for compensation under the Workmen's Compensation Act, 1923 in respect of death or disablement- **Section 452** ;
14. A unique new provision is added similar to Section 73(8) of the CGST Act, in relation to penalty for filing of Annual Return under section 92 and for filing of financial statement under section 137 (1) and (2), which states that in case the default relates to filing of these documents, then such default may be rectified in 30 days window given to the company through an issue of notice by the Adjudicating Officer and in that case no penalty shall be imposed for filing during this 30 days window given and all proceedings under this section in respect of such default shall be deemed to be concluded- - **Section 454 (3)**.

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