

F.No.3/57/2011-CL.II
Government of India
Ministry of Corporate Affairs
5th Floor, 'A' Wing, Shastri Bhavan,
New Delhi-110001
Dated 03.06.2011

To
All Regional Directors,

Subject: Settlement of prosecutions cases – regarding

Sir,

While reviewing prosecution cases it was decided to review pending prosecution cases. Ministry of Corporate Affairs has decided following actions to be taken by RDs and ROCs immediately.

1. Lok Adalats should be organized on 9th, 16th, 23rd & 30th June by RDs in the offices of concerned ROCs within your jurisdiction between 10.00 AM to 1.00 P.M by giving an advance advertisement in the local Newspapers to this effect through DAVP. The chapters of ICSI, ICWAI, ICAI and Bar Council may be used for wide publicity and efforts should be made to dispose off compoundable offences there itself. In next month, two Lok Adalats will be held by each RD per month. These would be held on Saturdays.

2. The object of organizing Lok Adalats should be to ascertain the legal cases where the companies and their officers in default are inclined to get the offences compounded so that necessary applications may be moved by the companies for this purpose and on payment of compoundable fees, the prosecutions may be withdrawn.

3. The advertisement must contain invitation to:

- i) Applicants of pending application for compounding within the jurisdiction of concerned ROC.
- ii) Companies and their officers in default against whom cases have already been filed and are compoundable under the provisions of Sec. 621A of the Companies Act, 1956.
- iii) Company's Director/Key Management Personnel who feels that a case has wrongly been filed against him and has requested to withdraw the case on his own or through authorized representative.

4. These cases should be cleared then and there by taking report from ROC & RD and if compoundable by the RD, the orders will be passed there itself. Cases for withdrawal shall be sent to MCA for approval.

5. All ROCs be advised to review pending prosecution cases with reference to circulars issued by the Ministry available at MCA Portal and to submit report with their recommendation through Regional Director.

6. All ROCs be advised to review prosecutions filed against nominee/independent directors so as to withdraw the cases where nominee/independent directors were not liable.

7. All ROCs be advised to review all the prosecutions filed for non-filing of statutory returns/reports u/s 159, 162, 220 of the Act where the companies/directors are not available/traceable and no public interest is involved in defaulting companies. For this purpose, public interest is presumed to be involved where the company is listed or public deposits have been accepted, debentures have been issued, or secured loans issued to banks or financial institutions.

8. All ROCs be also advised to review the prosecutions against the companies which have applied for striking off their names under EES-2010. After review of prosecutions cases, necessary report may be submitted by regional directors on monthly basis

9. Further, you are requested to confirm how many ROC offices under your jurisdiction had updated prosecution module and if any

ROC has not yet updated the prosecution module, the same should be got done within next 3 working days and to submit a compliance report.

This issues with the approval of Secretary, MCA.

Yours faithfully,

(R. K. Bakshi)
Deputy Director
(Inspection)