

General Circular No. 52/2011

F.No. 17/170/2011 CL.V
Government of India
Ministry of Corporate Affairs
CL V Section

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi
Dated 25th July, 2011

All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Sub : Simplified procedure for obtaining online approval of Central Government under section 297 of the Companies Act, 1956.

Sir,

The Ministry of Corporate Affairs has been receiving representations from various stakeholders to simplify the approval processes under section 297 of the Companies Act, 1956.

In order to cut timelines in giving approval, the Ministry has decided to simplify the procedures and to give approval online, if the proposed contract has been approved by the shareholders by way of special resolutions in a general meeting.

2. According to new procedure, application will be made in a new e-form with the prescribed fee. The relevant information like terms of contract and details of Board resolutions and special resolutions shall be captured in the e-form. The e-form shall also be certified by the practicing professional who shall specifically certify the correctness of the information and declarations given by the company in the e-form.

3. The company while seeking approval of the directors and shareholders in their meetings shall specifically take approval to the effect that: --

(i) Proposed contract is competitive, at an arm's length, without conflict of interest and is not less advantageous to it as compared to similar contracts with other parties.

(ii) The company has not made any default in repayment of any of its debts (including public deposits) or debentures or interest payable thereon and has filed its upto date Balance Sheets and Annual Returns with the Registrar of Companies;

(iii) The proposed contract is falling within the provisions of section 297 of the Act and provisions of sections 198, 269, 309, 314 and 295 are not applicable in the proposed contract.

(iv) The company and its Directors have complied with the provisions of sections 173, 287, 299, 300, 301 and other applicable provisions of the Companies Act, 1956 with regard to the proposed contract.

4. The application will be processed online and approval of Central Government shall also be made available to the applicant company online on the basis of declarations made by the company and certifications by the professionals given in the e-form.

5. If any of the information or declaration given by the company or certificate given by the professional in the e-form is found to be wrong, then the applicant company, its Directors and professional shall be liable for penal action under section 297 and 628 of the Companies Act, 1956 in addition to penal action prescribed in regulations of the respective professional institutes.

6. The process of online approval of Central Government under section 297 of the Companies Act, 1956 is likely to be implemented with effect from 24th September, 2011.

Yours faithfully,

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(Kamna Sharma)
Assistant Director

Copy to:

1. All concerned
2. PS to CAM and PS to MOS
3. PPS to Secretary, Additional Secretary, Joint Secretaries