

Filing of Conflicting Returns by Contesting Parties – Clarification Regarding

The Ministry of Corporate Affairs has clarified that Circular No. 19 and 20 of 2011 issued on 02.05.2011 that were issued for laying down certain procedure to regulate cases wherein filing of conflicting returns with regard to appointment of Directors or change of Director/Directors have now been superseded. This has been done in the light of some specific cases wherein it appears that either there was lack of consent of the removed/changed director or due process of Law were not followed.

Now, in order to avoid such eventualities wherever there is management dispute, the company is required to mandatorily file the attachment relating to cause of cessation along with Form 32 with the ROC concerned irrespective of the ground of cessation, viz (a) retirement; (b) disqualification; (c) death; (d) resignation; (e) vacation of office u/s 283 or 313 or 260; (f) removal u/s 284; (g) withdrawal of nomination by appointing authority or (h) absence of re-appointment.³ In case, any Director is aggrieved with his cessation in the company, he may file complaint in the Investor Complaint Form. On receipt of complaint, the ROC concerned will examine the complaint and mark the company as having 'management dispute'. Also, the ROC will issue a letter to the company and the parties to settle the matter amicably or get an order/interim order from a Court or Tribunal of competent jurisdiction. Till such dispute is settled, the documents filed by the company and by the contesting groups of Directors will not be approved/registered/recorded and will thus not be available in the registry for public viewing.

(Source: www.pib.nic.in)