



Compliances with Companies Act, 2013 in relation to Small Companies – Part XII

The concept of Small Companies was introduced by the Companies Act, 2013 (“Act”) to provide certain relaxations and exemptions with the intention of simplifying procedures and providing operational flexibility to certain small and mid-sized companies meeting the required criteria. This write up seeks to highlight the benefits accorded to Small Companies by the Act.

Criteria for Small Companies

As per Section 2(85) of the Companies Act, a company, which is not a public company, holding or subsidiary company, not for profit company or a company constituted under a special act and which does not exceed the following thresholds is a “small company”:

		Cap on Prescription**
Paid up Share Capital	Less than 50 lakhs	Less than INR 5 crores
Turnover	Less than 2 crores as per the last P/L Statement	Less than INR 20 crores

**The government may prescribe higher thresholds subject to the Caps mentioned above.

The language of the section as it currently reads implies that any one criteria may be met in order for a company to be classified as a small company.

However in February 2015, in order to further limit the number of companies, which may be classified as “Small”, the MCA has issued a [Companies \(Removal of Difficulties\) Order, 2015](#) effectively amending the definition of a small company. As per this order of the government, companies would need to meet with both the thresholds of paid up capital as well as turnover to be classified as a Small Company.

Simplified Compliance

The companies that fall within the ambit of Small Companies are allowed certain relaxations with respect to compliance with certain provisions of the Act. The relaxations so provided are summarized below:

Annual returns

The proviso to Section 92(1) provides a relaxation in favour of Small Companies by dispensing with requirement of having Signature by both the Company Secretary and the Director. In relation to a small company, a Company Secretary may alone sign the returns or in the absence of a secretary, a Director may sign the annual returns.

Board Meetings

Section 173(1) exempts a small company conducting a minimum of four board meetings every year without a gap exceeding one hundred and twenty days between two board meetings. A small company is required to hold only two board meetings in



a year with a minimum gap of ninety days between the two meetings, which can be held in each half of the calendar year.

Financial statement:

Small companies are not required to include the Cash Flow Statement as a part of their financial statements.

Auditor regulations:

Unlike other companies, Small Companies are not required to rotate their auditors and the maximum term of an auditor, which is five years in case of an individual and ten years in case of a firm is not applicable to a small company. Rule 13 of The Companies (Accounts) Rules, 2014 provides respite to Small Companies by exempting such companies from the requirement of appointment of Internal Auditors.

Merger Process

The merger process of Small Companies has been substantially simplified, however the simplified merger provisions are yet to be notified.

CSR

As per the provisions of Section 135 (1) of the Act, Small Companies are not required to comply with CSR obligations.

Fees

As per the table of fees appended to the Companies (Registration of Offices and Fees) Rules, 2014), fee for filings and other formalities under Section 403 of the Act is comparatively lower for Small Companies.

Conclusion

The Act facilitates business-friendly regulations for small and mid-sized entities and reduces the burden of excessive compliance, which may be disproportionate to the scale of business of such companies. However, the government is seeking to restrict the benefits sought to be offered to Small Companies by requiring one to comply with the two-pronged threshold, thereby depriving many companies that would have otherwise benefitted from these provisions. Also a “small company” status is temporary status in that a small company need not remain a small company throughout its existence and it would continually have to meet with the thresholds prescribed in the Act.