

Govt. to offer faceless adjudication of company law breaches

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NEW DELHI: The **Ministry of corporate affairs** will take a leaf out of the Income Tax department's book to offer faceless adjudication of specified company law offences to enable social distancing as well as eliminate bureaucratic discretion.

The ministry will upgrade its online services to companies offered through its MCA21 portal so that certain breaches under the Companies Act can be adjudicated remotely through electronic means, said two people familiar with the development. These are the offences that the administrative machinery of the ministry is authorized to adjudicate on, so that businesses can settle them and pay the fine or penalty where needed without having to go to a court.

The Companies Act was amended last year to reclassify 16 offences as civil defaults and to let adjudicating officers appointed by the government to levy penalties instead of having to go to a court to decide on the matter. These offences include matters related to issuance of shares at a discount and default in filing annual returns. The idea now is to adjudicate such matters without company executives having a physical interface with government officials. Besides improving ease of doing business, the move is expected to help address the governance challenges caused by the Covid-19 pandemic, using technology.

The Income Tax department has already enabled faceless or remote assessment of tax returns to eliminate any chance of inappropriate dealings between individual officers and the tax payer, who the government considers as its client.

Another Bill to amend the law--Companies (Amendment) Bill 2020, which seeks to decriminalize an additional 23 offences as part of an effort to make the law more 'humane' and to improve ease of doing business, was introduced in the Lok Sabha in the just- concluded budget session of Parliament, but is yet to be passed. Once the proposed amendment is passed or it is brought to effect through an Ordinance, these 23 offences will also become eligible for faceless resolution.

Making Corporate India Comply

Experts consider faceless adjudication of offences a good idea but believe businesses should be given the facility to make a video presentation if communication by other means and sending documents fails to put across their case in an effective way. "There is a distinction between what one understands and interprets by reading a document and what one understands and interprets with the help of a visual or video presentation," said Ved Jain, former president of accounting standard setter the **Institute of Chartered Accountants of India (ICAI)**.

To help businesses cope with the pandemic, finance and corporate affairs minister Nirmala Sitharaman last week allowed extra time for various tax and other statutory filings as well as relief on late fee, interest and penalty on various payments. While these relief measures pertain to individual compliance requirements, there was an urgent need to announce a 'black out period' wherein due dates falling under this period under various statutes are given an automatic extension, said Jain. For example, because of the lockdown, companies that want to claim depreciation benefits by commencing production from factories by 31 March are unable to do so, explained Jain.