Corporate Laws

(Contributed by CS Gaurav Pingle)

A director of a company has not completed the Director KYC compliance. He has resigned from the board of directors. Can the company file requisite e-Form with the Registrar of Companies by not complying with the procedure of Director's KYC?

Rule (12A) of the Companies (Appointment and Qualification of Directors) Rules, 2014 relates to 'Directors KYC'. According to the provisions, every individual who has been allotted a Director Identification Number (DIN) as on 31^{st} March of a Financial Year as per the Rules shall submit e-form DIR-3-KYC to the Central Government on or before 30^{th} April of immediate next financial year. It further states that every individual who has already been allotted DIN as at 31^{st} March, 2018, shall submit e-Form DIR 3 KYC on or before 5^{th} October, 2018. There is no exemption granted to any director for such compliance. Therefore, for the purpose of compliance of the Companies (Appointment and Qualification of Directors) Rules, 2014 and the technical requirements of MCA it is necessary to complete the procedure of Director KYC and then file requisite e-Form with the Registrar of Companies for intimating the resignation.

A private company has 3 shareholders. Out of 100 shares Mr. A holds 98 shares, Mr. B holds 1 share and Mr. C holds 1 share. At the annual general meeting, Mr. B and Mr. C are present in person. Due to personal reasons, Mr. A is not present. Whether there is adequate quorum at the annual general meeting?

Section 103 of the Companies Act, 2013 relates to 'Quorum for the meeting'. According to the provisions, in the case of a private company, 2 members personally present, shall be the quorum for a meeting of the company. The provisions of quorum are person-specific and not shareholder specific. Therefore, the presence of Mr. B and Mr. C at the annual general meeting of the company would be considered a valid quorum. Shareholding is irrelevant for quorum purpose.

A private company is being incorporated with an objective to acquire the proprietorship by the sole proprietor. Such incorporation is in accordance with the compliance to Income Tax Act, 1961. Whether it is mandatory to have the main object for acquisition of proprietorship or can such clause be in the 'other object'?

Taking into consideration fact that the private company is being incorporated with an objective to acquire the proprietorship by the sole proprietor in accordance with the provisions of the Income Tax Act, it is desirable to incorporate such company with one of its main objects as 'acquisition of sole proprietorship in accordance with the Income Tax Act'.

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