Synopsis of "Start Up" India

[Personal & Private Circulation bearing no opinion or advice]

What shall be considered as Startup?

- An entity shall be considered as a 'startup':
  - Till five years from the date of its incorporation / registration;
  - If its turnover for any of the financial years has not exceeded rupees 25 crore, and
  - It is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

- Provided that any such entity formed by splitting up or reconstruction of a business already in existence shall not be considered a 'startup';

- Provided further that in order to obtain tax benefits a startup so identified under the above definition shall be required to obtain a certificate of an eligible business from the Inter-Ministerial Board of Certification consisting of:
  - Joint Secretary, Department of Industrial Policy and Promotion,
  - Representative of Department of Science and Technology, and
  - Representative of Department of Biotechnology.

- Entity means a private limited company, or a registered partnership firm or a limited liability partnership.

- Turnover is as defined under the Companies Act, 2013.

- An entity is considered to be working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property if it aims to develop and commercialize:
  - A new product or service or process, or
  - A significantly improved existing product or service or process that will create or add value for customers or workflow.

Provided that the mere act of developing:

- products or services or processes which do not have potential for commercialization, or
- undifferentiated products or services or processes, or
- products or services or processes with no or limited incremental value for customers or workflow

would not be covered under this definition.

- The process of recognition as a 'startup' shall be through mobile app/portal of the Department of Industrial Policy and Promotion. Startups will be required to submit a simple application with any of following documents:

- a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator established in a post-graduate college in India; or
- a letter of support by any incubator which is funded (in relation to the project) from Government of India or any State Government as part of any specified scheme to promote innovation; or
- a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator recognized by Government of India; or
- a letter of funding of not less than 20 per cent in equity by any Incubation Fund/Angel Fund/Private Equity Fund/Accelerator/Angel Network duly registered with Securities and Exchange Board of India that endorses innovative nature of the business. Department of Industrial Policy and Promotion may include any such fund in a negative list for such reasons as it may deem fit; or
- a letter of funding by Government of India or any State Government as part of any specified scheme to promote innovation; or
- a patent filed and published in the Journal by the Indian Patent Office in areas affiliated with the nature of business being promoted.

➢ Department of Industrial Policy and Promotion may, until such mobile app/portal is launched make alternative arrangement of recognizing a 'startup'. Once such application with relevant document is uploaded a real-time recognition number will be issued to the startup. If on subsequent verification, such recognition is found to be obtained without uploading the document or uploading any other document or a forged document, the concerned applicant shall be liable to a fine which shall be fifty per cent of paid up capital of the startup but shall not be less than Rupees 25,000.

➢ This notification shall come into force on the date of its publication in the Official Gazette

Prepared By:
Mohit Gupta,
B Com. (Hons.), FCA, LLB,
Alumni Rajdhani College (DU)
Alumni Law Centre 2, Law Faculty (DU)
For any query and feedback, please write to mohit@gmrindia.com