SHRAVAN KUMAR VISHNOI

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LETTER TO ALL INDIA FEDERATION OF TAX PRACTITIONERS

Date: 26/06/2019

To
Dr. Ashok Sharaf
President, All India Federation Of Tax Practitioners (AIFTP)
Head Office : 215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400020

To
Shri Narayan Jain
Co-Chairman Direct Taxes Committee
Head Office : 215, Rewa Chambers,
31, New Marine Lines,
Mumbai 400020

Dear Sir,

I found a letter dated 25.06.2019 through social media on the letter head of All India Federation Of Tax Practitioners (AIFTP) Head Office 215, Rewa Chambers, 31, New Marine Lines, Mumbai 400020, recommending the amendment in the Companies Act 2013.

I am surprised to note that your federation could find only one recommendation to amend the Companies Act 2013 i.e. increase in the present prescribed limit of Rs. 5 Crores to Rs. 20 Crores for the appointment of Company Secretary.

I am also surprised to note that your recommendation is misleading and based on distortive facts. In your representation you have written the following in a vague manner without any authenticity of Information from any institution including The Institute of Company Secretaries of India:-

1. **The Companies are facing great difficulty in getting whole time company Secretaries due to paucity and they are demanding huge remuneration taking advantage of scarcity.**

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Correct Facts:- You have mentioned that **"company Secretaries due to paucity and they are demanding huge remuneration taking advantage of scarcity"** But you have not written any amount specifically, the company secretaries are demanding. You have written the word "HUGE" which is vague. The demand / negotiation of Remuneration by any professional who may be a Company Secretary, Chartered Accountant, MBA, Engineer or any other Professional mainly depends on the knowledge, experience, qualification that very professional possess and also based on the company in which that professional is seeking the employment. On the contrary, there is no scarcity of Company Secretary.

2. **Companies are unable to upload Form INC 22A prescribed under the Companies Act, in absence of availability of whole time Company Secretary.**

Correct Facts:- The problem in uploading of Form INC-22A is not because of unavailability of whole time Company Secretary. For successful filling of Form INC-22A there are certain requirements which includes, inter alia:

a. Proper Constitution of Board of Directors of Company,
b. Proper Appointment of Statutory Auditors and Cost Auditor of the Company,
c. Updated filling of Financial Statement and Annual Return of the Company upto 31.03.2018,
d. Proof Maintenance of Registered office through geo tagging mode along with Photograph of Director at the registered office, etc.

Considering the above facts, if your federation is so concerned of the difficulties of companies in filling of form INC-22A, it should have represented to fix a monetary limit similar to your recommendation for appointment of Company Secretaries, "also for the appointment of Statutory Auditors and filling of e-form ADT-1 and to relax the requirement of updated filling of Annual Return and Financial Statements upto 31.03.2018 for filling of Form INC-22A".

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3. **The total number of companies having paid up share capital of 5 crore and more were 27785.as on 31st December, 2014 which has substantially increased in last 5 years. In 2014 there were 15364 Private companies and 12421 Public companies having paid up share capital of 5 crore & more. The total number of companies were 27785. The current figure of companies having paid up capital of Rs.5 crore or more is estimated at more than 44,000. Majority of them are in practice.**

Correct Facts:- The given data and facts are almost five years old and depict an incorrect picture about the overall profession of Company Secretaries. You have written that majority of company secretaries are in practice which is baseless. I humbly ask you have you taken the number from the ICSI who is the only regulator of the profession of the Company Secretaries or from the Ministry of Corporate Affairs that majority of the company secretaries are in practice. To the best of my knowledge approx 58,000 company secretaries are registered in India and out of that only 10700 (approx) Company Secretaries are engaged in practice. So there are sufficient number of company secretaries available in the industry for the appointment and there is no scarcity.

Therefore I request you to withdraw your letter from the social Media and from the Ministry of Finance since your recommendation is based on incorrect facts and may be misleading to the Government, Industry and Public at large.

Yours Sincerely,

CS Shravan Kumar Vishnoi
Company Secretary