Registration of Charges

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This document would assist in understanding the requirements for Registration of Charges under Companies Act 2013

11th August, 2015
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REGISTRATION OF CHARGES

“CHARGE” means an interest or lien created on the property or assets of a company or any of its undertakings or both as security and includes a mortgage

Statutory Summary

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Requirement for Registration

There is a major change in the registration of charges in the Companies Act 2013 (2013 Act) as compared to Companies Act 1956 (1956 Act). The 1956 Act specifically categorised the type of charges required to be registered. The present Act does not prescribe any such list; hence all types of charges are to be registered under the 2013 Act, whether created within India or Outside India.

Since all charges are to be registered, now even pledge of movable property which was exempt from registration under 1956 Act also seems to be registered under 2013 Act.

Every company creating a charge has to register the particulars of the charge signed by the company and the charge-holder together with the instrument, when:

- Company is acquiring any property or assets whether tangible or not, which are subject to any charge.
- A charge is created within or outside India, any of its undertakings
- There is any modification in the terms or conditions or the extent or operation of any charge already registered.
- There are charges on properties which are created or acquired by any foreign company.

Every company has to keep at its registered office a register of charges in form CHG-7, which shall include therein all charges and floating charges affecting any property or assets of the company or any of its undertakings.

If a person is appointed by company to manage the property subject to charge, then he has to within 30 days of appointment, give notice to the registrar in form CHG-6.

Take note that the following charges are also to be registered:

- Future Debts
- Hypothecation of vehicles
- Loans secured by vehicles (vehicle loans)
- Pledges
Company has to register charge with Registrar within 30 days of creation of charge in Form CHG-1.

If not registered within 30 days then within 300 days of such creation with additional fees.

If company fails to register within period of 300 days, then it has to seek extension from Central Government (Regional Director) in Form CHG-8

File the approval received with Registrar in Form INC-28.

If registrar is satisfied, he shall issue a certificate of registration in Form CHG-2

If company fails to register, without prejudice to its liability to offence, the person in whose favour charge is created may apply to registrar to register.

Any change / modification in terms of the charge is also to be filed in Form CHG 1, on whose registration ROC shall issue Form CHG 3.
Satisfaction of Charge

Company to intimate ROC within 30 days of the payment or satisfaction in full in Form CHG-4

Registrar shall within 14 days of intimation, send a cause notice to the holder of charge calling for cause, if any.

If cause is shown, registrar shall record to note that effect and inform to company about it.

If no cause is shown, registrar shall order to enter memorandum of satisfaction and inform company about it and issue certificate in Form-CHG-5

In absence of intimation from company, registrar on the basis of evidence if satisfied that:
Debt is paid or satisfied in whole or in part
Property or undertaking charged has been released from charge

Enter in the register of charge and inform the affected parties in 30 days of making entry and issue certificate in Form CHG-5
Punishment

If company or any officer of company contravenes any provision regarding registration, satisfaction of charge or any other provision regarding charge under Companies Act, 2013 and rules there to then company or officer who is in default shall be punishable, and punishment shall be

On Company

- Fine which shall not be less than Rs. 1 Lac rupees but which may extend to Rs. 10 Lacs

On Officer in Default

- Imprisonment which may extend to 6 months; or
- Fine which shall not be less than Rs. 25,000 but which may extend to Rs 1 lac; or
- Both

I hope this document would be of use to you. I thank CA. Samta Jain in assisting me in compiling this document.

Best Regards

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