



# Connection

*Self Discipline is about taking charge of your mind and directing it to act in the best interest of yourself.*

*~ Gaur Gopal Das*

## LLB &amp; CO.

JUST TO  
REMIN  
YOU

- Aug 15 - Issue of TDS Certificates
- Aug 15 - Payment of PF & ESIC
- Aug 20 - GSTR 3B
- Aug 31 - Filing of IT Returns by Individuals, HUF, Firm, AOP, BOI (without audit)

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## CBDT Amends Format of Form No. 3CD wef 20th August, 2018

In exercise of the powers conferred by section 44AB read with section 295 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Income-tax Act), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. (1) These rules may be called the **Income-tax (8th Amendment) Rules, 2018**.

(2) They shall come into force from the 20th day of August, 2018.

2. In the Income-tax Rules, 1962, in Appendix II, in Form No. 3CD,-

(i) in serial number 4,-

(a) after the words "sales tax," the words "goods and services tax," shall be inserted;

(b) after the words "registration number or", the words "GST number or" shall be inserted;

(ii) in serial number 19, in the table, after the row with entry "32AC", the row with entry "32AD" shall be inserted;

(iii) in serial number 24, after the words "32AC or", the words "32AD or" shall be inserted;

(iv) in serial number 26, for the words "or (f)", the words ", (f) or (g)" shall be substituted;

(v) after serial number 29 and the entries relating thereto, the following shall be inserted, namely:-

"29A. (a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (ix) of sub-section (2) of section 56? (Yes/

No)

(b) If yes, please furnish the following details:

(i) Nature of income:

(ii) Amount thereof:

29B. (a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (x) of sub-section (2) of section 56? (Yes/No)



(b) If yes, please furnish the following details:

(i) Nature of income:

(ii) Amount (in Rs.) thereof:";

(vi) after serial number 30 and the entries relating thereto, the following shall be inserted, namely:-

"30A. (a) Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year? (Yes/No)

b) If yes, please furnish the following details:-

(i) Under which clause of sub-section (1) of section 92CE primary adjustment is made?

(ii) Amount (in Rs.) of primary adjustment:

(iii) Whether the excess money

available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE? (Yes/No)

(iv) If yes, whether the excess money has been repatriated within the prescribed time (Yes/No)

(v) If no, the amount (in Rs.) of imputed interest income on such excess money which has not been repatriated within the prescribed time:

30B. (a) Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B? (Yes/No)

(b) If yes, please furnish the following details:-

(i) Amount (in Rs.) of expenditure by way of interest or of similar nature incurred:

(ii) Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year (in Rs.):

(iii) Amount (in Rs.) of expenditure by way of interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above:

(iv) Details of interest expenditure brought forward as per sub-section (4) of section 94B:

(v) Details of interest expenditure carried forward as per sub-section (4) of section 94B:

30C. (a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during



the previous year? (Yes/No)

(b) If yes, please specify:-

(i) Nature of the impermissible avoidance arrangement:

(ii) Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement:";

(vii) in serial number 31,-

(A) after clause (b), the following clauses and entries relating thereto shall be inserted, namely:-

"(ba) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the previous year, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account:-

(i) Name, address and Permanent Account Number (if available with the assessee) of the payer;

(ii) Nature of transaction;

(iii) Amount of receipt (in Rs.);

(iv) Date of receipt;

(bb) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, received by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:-

(i) Name, address and Perma-

nent Account Number (if available with the assessee) of the payer;

(ii) Amount of receipt (in Rs.);

(bc) Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year:-

(i) Name, address and **Permanent Account Number** (if available with the assessee) of the payee;

(ii) Nature of transaction;

(iii) Amount of payment (in Rs.);

(iv) Date of payment;

(bd) Particulars of each payment in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion to a person, made by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:-

(i) Name, address and Permanent Account Number (if available with the assessee) of the payee;

(ii) Amount of payment (in Rs.);

(Particulars at (ba), (bb), (bc) and (bd) need not be given in the case of receipt by or payment to a Government company, a banking Company, a

post office savings bank, a cooperative bank or in the case of transactions referred to in section 269SS or in the case of persons referred to in Notification No. **S.O. 2065 (E)** dated 3rd July, 2017");

(B) in item (c), in sub-item (v), for the words "taken or accepted", the word "repaid" shall be substituted;

(C) in item (d), in sub-item (ii), after the words "amount of", the words "repayment of" shall be inserted;

(D) in item (e), in sub-item (ii), after the words, "amount of", the words "repayment of" shall be inserted;

(viii) in serial number 34, for item (b), the following item shall be substituted, namely:-

"(b) whether the assessee is required to furnish the statement of tax deducted or tax collected. If yes, please furnish the details:

(ix) after serial number 36 and the entries relating thereto, the following shall be inserted, namely:-

"36A. (a) Whether the assessee has received any amount in the nature of dividend as referred to in sub-clause (e) of clause (22) of section 2? (Yes/No)

(b) If yes, please furnish the following details:-

(i) Amount received (in Rs.):

(ii) Date of receipt:";

(x) after serial number 41 and the entries relating thereto, the following shall be inserted, namely:-

"42. (a) Whether the assessee is required to furnish statement in Form No. 61 or Form No. 61A or Form No. 61B? (Yes/No)



(b) If yes, please furnish:

43. (a) Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in sub-section (2) of section 286 (Yes/No)

(b) if yes, please furnish the following details:

(i) Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity

(ii) Name of parent entity

(iii) Name of alternate reporting entity (if applicable)

(iv) Date of furnishing of report

44. Break-up of total expenditure of entities registered or not registered under the GST:

(i) Total amount of Expenditure incurred during the year

(ii) Expenditure in respect of entities registered under GST

Relating to goods or services exempt from GST

Relating to entities falling under composition scheme

Relating to other registered entities

Total payment to registered entities

( i i i )

Expenditure relating to entities not registered under GST



## Issue Lower/ Nil Rate TDS deduction Certificate within prescribed time

The time-line of 30 days prescribed as per the Citizen's Charter-2014 for issue of certificates for no deduction of tax or deduction of tax at lower rate under section 197 or 195 of the IT Act 1961. Several instances of inordinate delay in issue of such certificates and non-adherence to the said time-line have been brought to the notice of the Board, which

have been viewed adversely.

2. In this regard, the undersigned is directed to reiterate that the aforesaid time-line for issue of certificates u/s 197 or 195 of the Act must be adhered to scrupulously. **Disposal of applications beyond the said time limit of 30 days must be for justifiable reasons to be recorded in writing and duly approved by CIT (TDS)/ CIT**

**(Intl. Tax) concerned.**

3. Any delay without valid reasons will be viewed seriously and CIT (TDS)/ CIT (Intl. Tax) concerned will be held accountable.

## MCA notifies new provisions for Issue of shares on private placement basis

In exercise of the powers conferred by sub-section (2) of section 1 of the Companies (Amendment) Act, 2017 (1 of 2018), the Central Government hereby appoints the 7th day of August, 2018 as the date on which the provisions of section 10 of the said Act shall come into force.

### Extract of Section 10 of Companies (Amendment) Act, 2017

Substitution of new section for section 42 of Companies Act,

2013.

### **Issue of shares on private placement basis.**

9. For section 42 of the principal Act, the following section shall be substituted, namely:—

'42. (1) A company may, subject to the provisions of this section, make a private placement of securities.

(2) A private placement shall be made only to a select group of persons who have been identified

by the Board (herein referred to as "identified persons"), whose number shall not exceed fifty or such higher number as may be prescribed [excluding the qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option in terms of provisions of clause (b) of sub-section (1) of section 62], in a financial year subject to such conditions as may be prescribed.

(3) A company making private



Ministry of Corporate Affairs  
Government of India

placement shall issue private placement offer and application in such form and manner as may be prescribed to identified persons, whose names and addresses are recorded by the company in such manner as may be prescribed:

Provided that the private placement offer and application shall not carry any right of renunciation.

Explanation I.—“private placement” means any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section.

Explanation II.—“qualified institutional buyer” means the qualified institutional buyer as defined in the **Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009**, as amended from time to time, made under the Securities and Exchange Board of India Act, 1992.

Explanation III.—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this

Chapter.

(4) Every identified person willing to subscribe to the private placement issue shall apply in the private placement and application issued to such person alongwith subscription money paid either by cheque or demand draft or other banking channel and not by cash:

Provided that a company shall not utilise monies raised through private placement unless allotment is made and the return of allotment is filed with the Registrar in accordance with sub-section (8).

(5) No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company:

Provided that, subject to the maximum number of identified persons under sub-section (2), a company may, at any time, make more than one issue of securities to such class of identified persons as may be prescribed.

(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the expiry of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per

cent. per annum from the expiry of the sixtieth day:

Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than

(a) for adjustment against allotment of securities; or

(b) for the repayment of monies where the company is unable to allot securities.

(7) No company issuing securities under this section shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an issue.

(8) A company making any allotment of securities under this section, shall file with the Registrar a return of allotment within fifteen days from the date of the allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.

(9) If a company defaults in filing the return of allotment within the period prescribed under sub-section (8), the company, its promoters and directors shall be liable to a penalty for each default of one thousand rupees for each day during which such default continues but not exceeding twenty-five lakh rupees.

(10) Subject to sub-section (11), if a company makes an offer or accepts monies in contravention of this section, the company, its promoters





tation to subscribe securities under private placement shall not be made to persons more than two hundred in the aggregate in a financial year:

Provided that any offer or invitation made to qualified institutional buyers, or to employees of the company under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62 shall not be considered while calculating the limit of two hundred persons.

Explanation.— For the purposes of this sub-rule, it is hereby clarified that the restrictions aforesaid would be reckoned individually for each kind of security that is equity share, preference share or debenture.

(3) A private placement offer cum application letter shall be in the form of an application in Form PAS-4 serially numbered and addressed specifically to the person to whom the offer is made and shall be sent to him, either in writing or in electronic mode, within thirty days of recording the name of such person pursuant to sub-section (3) of section 42:

Provided that no person other than the person so addressed in the private placement offer cum application letter shall be allowed to apply through such application form and any application not conforming to this condition shall be treated as invalid.

(4) The company shall maintain a complete record of private placement offers in Form **PAS-5**.

(5) The payment to be made for subscription to securities shall be made from the bank

account of the person subscribing to such securities and the company shall keep the record of the bank account from where such payment for subscription has been received:

Provided that monies payable on subscription to securities to be held by joint holders shall be paid from the bank account of the person whose name appears first in the application:

Provided further that the provisions of this sub-rule shall not apply in case of issue of shares for consideration other than cash.

(6) A return of allotment of securities under section 42 shall be filed with the Registrar within fifteen days of allotment in Form PAS-3 and with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014 along with a complete list of all the allottees containing-

- (i) the full name, address, **Permanent Account Number** and E-mail ID of such security holder;
- (ii) the class of security held;
- (iii) the date of allotment of security ;
- (iv) the number of securities held, nominal value and amount paid on such securities; and particulars of consideration received if the securities were issued for consideration other than cash.

(7) The provisions of sub-rule (2) shall not be applicable to -

- (a) non-banking financial companies which are registered with the Reserve Bank of India under the Reserve

Bank of India Act, 1934 (2 of 1934); and

(b) housing finance companies which are registered with the National Housing Bank under the National Housing Bank Act, 1987 (53 of 1987), if they are complying with regulations made by the Reserve Bank of India or the National Housing Bank in respect of offer or invitation to be issued on private placement basis:

Provided that such companies shall comply with sub-rule (2) in case the Reserve Bank of India or the National Housing Bank have not specified similar regulations.

(8) A company shall issue private placement offer cum application letter only after the relevant special resolution or Board resolution has been filed in the Registry:

Provided that private companies shall file with the Registry copy of the Board resolution or special resolution with respect to approval under clause (c) of sub-section (3) of section 179.

3. In the principal rules, in the Annexure, -

- (i) for "Form No. PAS-4", the following Form Shall be substituted



## Companies (Accounts) Amendment Rules, 2018 dated 31.07.2018

In exercise of the powers conferred by section 134 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the **Companies (Accounts) Rules, 2014**, namely:-

1. (1) These rules may be called the **Companies (Accounts) Amendment Rules, 2018**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Accounts) Rules, 2014, in rule 8,

(i) In sub-rule (5), after clause (viii) the following clauses shall be inserted, namely:-

“(ix) a disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013, is required by the Company and accordingly such accounts and records are made and maintained,

(x) a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the **Sexual Harassment of Women at Workplace (Prevention, Prohibi-**

**tion and Redressal) Act, 2013** [14 of 2013],”;

(ii) after sub-rule (5), the following rule shall be inserted, namely:-

“(6) This rule shall not apply to One Person Company or Small Company”.

(iii) after rule 8, the following rule shall be inserted, namely:-

“8A. **Matters to be included in Board's Report for One Person Company and Small Company.**- (1) The Board's Report of One Person Company and Small Company shall be prepared based on the stand alone financial statement of the company, which shall be in abridged form and contain the following:-

(a) the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;

(b) number of meetings of the Board;

(c) Directors' Responsibility Statement as referred to in sub-section (5) of section 134;

(d) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;

(e) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report;

(f) the state of the company's affairs;

(g) the financial summary or highlights;

(h) material changes from the date of closure of the financial year in the nature of business and their effect on the financial position of the company;

(i) the details of directors who were appointed or have resigned during the year;

(j) the details or significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operations in future.

(2) The Report of the Board shall contain the particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the Form AOC-2.”.



## Circular- Notice for Meetings of the Committee of Creditors

The Insolvency and Bankruptcy Code, 2016 (Code) confers certain privileges on financial creditors on the premise, as reasoned by the Bankruptcy Law Reforms Committee:

“The Committee deliberated on who should be on the creditors committee, given the power of the creditors committee to ultimately keep the entity as a going concern

or liquidate it. The Committee reasoned that members of the creditors committee have to be creditors both with the capability to assess viability, as well as to be willing to modify terms of existing liabilities in negotiations. Typically, operational creditors are neither able to decide on matters regarding the insolvency of the entity, nor willing to take the risk of post-

poning payments for better future prospects for the entity. The Committee concluded that, for the process to be rapid and efficient, the Code will provide that the creditors committee should be restricted to only the financial creditors.”

2. As members of the committee of creditors (CoC), the financial







creditors discharge several critical responsibilities, including invitation, receipt, consideration and approval of resolution plans under the Code. Their conduct has serious implications for continued business of a corporate debtor and consequently on the economy. The Hon'ble Adjudicating Authority has expressed concern about their conduct in a few matters.

3. By order dated 7th June, 2018 in the matter of SBJ Exports & Mfg. Pvt. Ltd. Vs. BCC Fuba India Ltd. (CP-659/2016), the Hon'ble Adjudicating Authority observed: “.. An unenviable situation has been created by the conduct of the members of the CoC. Despite the fact that the Resolution Professional apprised the CoC that the period of 180 days is to expire on 12.02.2018 and sanction be granted for moving an application before the Adjudicating Authority for extension of the period. The CoC has behaved in the way we have recorded in the preceding paras.”. It further observed: “A strange phenomena has developed in so far as the functioning of the CoC is concerned. In a number of cases it has now been seen that Members of the CoC are nominated by Financial Creditors like Banks without conferring upon them the authority to take decision on the spot which acts as a block in the time bound process contemplated by the Insolvency and Bankruptcy Code, 2016. Such like speed breakers and roadblocks obviously cause obstacles to achieve the targets of speedy disposal of the CIR process.”. It directed: “In view of the

above we direct the Resolution Professional to bring this order to the notice of the CoC so that appropriate steps be taken. A copy of this order be sent to the Insolvency and Bankruptcy Board of India for taking suitable action in respect of the conduct of the Members of CoC in the present matter as well as in the day to day functioning of the Members of CoC generally speaking.”.

4. In the other matter of Jindal Saxena Financial Services Pvt. Ltd. Vs. Mayfair Capital Private Limited (C.P. No. (IB)-84(PB)/2017), the Hon'ble Adjudicating Authority noted that there were four financial creditors who attended the first meeting of the CoC. In the said meeting, the CoC did not approve appointment of interim resolution professional (IRP) as resolution professional (RP) since two of the four financial creditors, having aggregate voting rights of 77.97% required internal approvals from their competent authorities. It observed: “We deprecate this practice. The Financial Creditors/Banks must send only those representatives who are competent to take decisions on the spot. The wastage of time causes delay and allows depletion of value which is sought to be contained. The IRP/RP must in the communication addressed to the Banks/ Financial Creditors require that only competent members are authorized to take decisions should be nominated on the CoC. Likewise, Insolvency and Bankruptcy Board of India shall take a call on this issue and frame appropriate Regulations.”.

5. Section 24 (3) (a) of the Code requires the resolution professional to give notice of each meeting of the CoC to members of the CoC and other persons. Regulation 21 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 specifies the content of the notice for meetings of the CoC.

6. In view of the above, the interim resolution professional or the resolution professional, as the case may be, is directed that he shall, in every notice of meeting of the CoC and any other communication addressed to the financial creditors, other than creditors under section 21 (6A) (b), require that they must be represented in the CoC or in any meeting of the CoC by such persons who are competent and are authorised to take decisions on the spot and without deferring decisions for want of any internal approval from the financial creditors.

7. This Circular is issued in exercise of powers under section 196 (1) (aa) read with 196 (1) (g) of the Insolvency and Bankruptcy Code, 2016.



## LLB &Co.

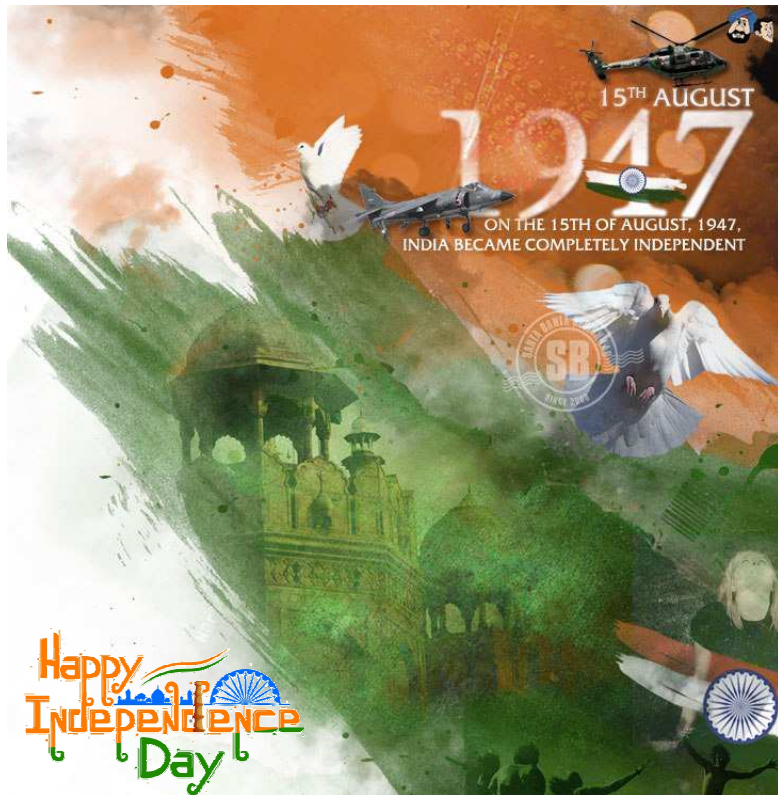
525, The Summit Business Bay,  
Behind Gurunanak Petrol Pump,  
Near W.E. Highway Metro and Cinemax,  
Andheri (East), Mumbai - 400 093

Office No.: 5, Barsana,  
Salasar Brij Bhoomi,  
Near Maxus Mall,  
Bhayandar (West),  
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## Multipurpose Empanelment Form for the year 2018-19

Practicing Chartered Accountants are invited to fill the Multipurpose Empanelment Form (MEF) for the year 2018-19 at [www.meficai.org](http://www.meficai.org) or [www.pdicai.org](http://www.pdicai.org) by registering themselves in MEF 2018-19, even if registered in MEF in earlier year (s).

The key highlights of the MEF- 2018 -19 are:

Introduction of fields (in grey colour) for every pre-filled fields (in green colour) facilitating the applicants to fill the correct detail (s) in those corresponding field (s) in case appli-

cant does not agree with the pre-filled details. However, the applicant can inform their correction through Memorandum of Changes (MOCs) also. The changes will be accepted only after due verification.

Submission of Declaration duly digitally signed by all the continuing Partners / Proprietor/ Member practicing in Individual name or uploading the scan copy of Declaration on MEF Application.

For any other query/clarification, please lodge your complaint online

on MEF Application itself. If the same is not resolved within 3 working days, please contact PDC Secretariat at [mefpdc@icai.in](mailto:mefpdc@icai.in) or 011-30110444 /440 between 3 pm to 5 pm.

The last date for submission of online MEF Form for the year 2018-19 is 21st August, 2018 and Declaration is to be submitted within 10 days of the filling of MEF but not later than 30th August, 2018.

### Disclaimer:

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