Date: 31st July, 2026

To,
CS Pawan G. Chandak
President
The Institute of Company Secretaries of India

Subject: Representation for amendment in the regulatory framework to provide for automatic credit, adjustment or expeditious refund of fees and stamp duty paid in respect of incorporation applications rejected by the Registrar of Companies.

Respected Sir,

At the outset, this representation is placed before the Hon’ble President and the Council of the Institute by the Western India Regional Council of ICSI (“WIRC”) in terms of Regulation 113 of the Company Secretaries Regulations, 1982. WIRC respectfully submits for the consideration of the Institute the hardship being faced by promoters, entrepreneurs, start-ups, professionals and investors under the existing mechanism governing the refund of fees and stamp duty paid in respect of incorporation applications that are ultimately rejected, with a request that the matter may be taken up appropriately with the Ministry of Corporate Affairs (“MCA”) for introducing an automatic credit, adjustment or time-bound refund mechanism.

1. Background

Under the provisions of Section 7 of the Companies Act, 2013, a company comes into existence only upon registration of the prescribed documents and issuance of the Certificate of Incorporation by the Registrar of Companies. Until such registration is completed, no corporate entity is brought into existence and no legal personality is conferred upon the proposed company.

Similarly, under Sections 11 and 12 of the LLP Act, 2008, a Limited Liability Partnership comes into existence only upon registration and issuance of the Certificate of Incorporation by the Registrar.

In the course of incorporation proceedings, applicants are required to pay prescribed filing fees, registration charges and applicable stamp duty through the MCA portal. However, where an incorporation application is rejected due to procedural deficiencies, technical objections, documentation issues, regulatory observations or other defects, the proposed entity never comes into existence despite payment of the statutory charges.

2. Existing Practical Difficulties

Although the MCA system presently provides a mechanism for seeking refund in certain cases, the process is often time-consuming and requires separate procedural compliance by stakeholders.

In practice, applicants experience:

- considerable delays in processing of refund applications;
- blockage of funds for extended periods;
- duplication of costs where fresh incorporation applications are required;
- additional financial hardship for start-ups and small businesses.

3. Legal and Equitable Considerations

The present framework results in a situation where:

- statutory fees stand collected;
- the proposed entity is never incorporated;
- no certificate of incorporation is issued;
- no corporate rights come into existence;
- the applicant is compelled to initiate the process afresh.

While it is appreciated that filing fees are prescribed under the Companies Act, 2013, the Companies (Registration Offices and Fees) Rules, 2014 and corresponding provisions under the LLP framework, the absence of a streamlined credit or adjustment mechanism causes avoidable hardship to stakeholders.

It is a settled principle of good governance and administrative fairness that regulatory procedures should facilitate compliance and should not impose disproportionate burdens where the substantive objective of incorporation remains unachieved.

The Government of India has consistently promoted:

- Ease of Doing Business;
- Start-up India initiatives;
- Digital Governance;
- Reduction of procedural bottlenecks;
- Promotion of entrepreneurship and MSMEs.

The present mechanism, though legally valid, may benefit from rationalisation in order to align with these policy objectives.

4. Stamp Duty Component

A significant portion of the financial burden arises from payment of stamp duty on incorporation documents.

While stamp duty falls within the domain of the Indian Stamp Act, 1899 and applicable State Stamp Laws, the practical consequence remains that promoters incur substantial expenditure even where the proposed company or LLP never comes into existence.

Accordingly, consultation may be initiated with the concerned State Governments and authorities to explore:

- revalidation of stamp duty;
- adjustment against subsequent incorporation applications;
- issuance of electronic credit;
- simplified refund procedures.

5. Need for Regulatory Reform

The existing refund mechanism, though available, may not adequately address the practical difficulties faced by stakeholders.

Accordingly, it is respectfully submitted that a more efficient and technology-driven framework may be introduced whereby:

A. Automatic Credit Facility

Where an incorporation application is rejected and no Certificate of Incorporation is issued, the fees paid may automatically be credited to the MCA account of the applicant for utilisation in a subsequent incorporation application.

B. Time-Bound Refund

In cases where credit adjustment is not opted for, refunds may be processed within a prescribed period of 15 to 30 days from approval of the refund request.

C. Carry Forward of Fees

A facility may be introduced enabling utilisation of the credited amount for a specified period, such as 90 days or 180 days.

D. Stamp Duty Coordination Framework

The Ministry may engage with State Governments for creation of a uniform mechanism for adjustment or revalidation of stamp duty paid in cases where incorporation does not materialise.

E. Restriction to Genuine Cases

The benefit may be restricted to bona fide rejected applications and may not be extended to applications rejected due to fraud, misrepresentation or abuse of the incorporation process.

6. Benefits of the Proposed Measures

The proposed framework would:

- Further strengthen Ease of Doing Business initiatives;
- Reduce financial hardship for entrepreneurs and start-ups;
- Minimise duplication of compliance costs;
- Enhance stakeholder confidence in the MCA ecosystem;
- Reduce administrative burden associated with repeated refund applications;
- Align regulatory administration with principles of fairness and efficiency.

Prayer

In view of the foregoing, it is most respectfully prayed that the Ministry may consider:

1. Amending the Companies (Registration Offices and Fees) Rules, 2014 and corresponding LLP Rules to provide for an automatic credit or adjustment mechanism in respect of fees paid for rejected incorporation applications;
2. Prescribing a statutory timeline for processing refunds wherever adjustment is not feasible;
3. Developing an integrated electronic credit ledger within the MCA portal for utilisation of such amounts against subsequent filings;
4. Initiating consultations with State Governments and other stakeholders for creating a harmonised mechanism for adjustment, revalidation or refund of stamp duty paid in cases where incorporation is ultimately not effected.

Such a measure would significantly enhance the ease of doing business framework and provide meaningful relief to genuine entrepreneurs without compromising the regulatory objectives of the Ministry.

Yours faithfully,

CS Yogesh Choudhary
Chairman
Western India Regional Council
The Institute of Company Secretaries of India