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ARTICLE

ADVISER

Mr. PRADEEP K. MITTAL

B.Com., LL.B., FCS, **Advocate**

Past Central Council Member

The Institute of Company Secretaries of India

E-mail: pkmittal171@gmail.com

:9811044365, 9911044365

INCOME TAX

Mr. MANOJ KUMAR MITTAL

CHARTERED ACCOUNTANT

Ph:28756284, 41557022

9810764620

Email-manojmittal2005@yahoo.com

CIVIL LAWS

Mr. PRAVEEN K. MITTAL

ADVOCATE

E-mail: pkmittal171@gmail.com

9810826436

HONORARY ADVISER

Dr. SANJEEV KUMAR

M.Com. LL.B., Ph.D, PGDPIRL, AICWA, FCS

EXECUTIVE DIRECTOR – BAJAJ HINDUSTHAN LIMITED

ONE COUNTRY, MANY YEARS!
FINANCIAL YEAR UNDER COMPANIES ACT 2013

By:
Pradeep K Mittal, Advocate*
B.Com. LLB. FCS

In 2012, infrastructure firm IVRCL was going through a restructuring process and awaiting a court nod for the merger/demerger. "Hence, to avoid cumbersome accounting with respect to the merger/demerger and to have the merged balance sheet in place", the company decided to extend the accounting year up to June 2012. For the next year, the company reverted to the usual April-March period. Thus, while the Financial Year 2012 profit and revenue numbers were for a 15-month period, Financial Year 2013 numbers were for a truncated, nine-month period.

IVRCL was not alone. Several Indian companies made such changes. So far, the companies had the freedom to alter the accounting year, depending on internal factors such as profitability and external events such as court orders. However, the Companies Act, 2013, has fixed this. It has removed the provision that allowed companies to cut or extend financial year as they pleased, paving way for uniform reporting by corporate India.

POSITION IN ERSTWHILE COMPANIES ACT, 1956

The term 'Financial year' was defined in section 2(17) of the Companies Act, 1956. As per section 2(17), the term 'Financial year' in relation to any body corporate means, the period in respect of which any profit and loss account of the body corporate laid before it in Annual General Meeting is made up, whether that period is a year or not. Hence a company was at its liberty to follow any financial year whether or not it ends on 31st March.

However, for the purpose of Income Tax, accounts will have to be made on 31st March. In simple terms the period to which the balance sheet and profit and loss

* **Past Central Council Member: The Institute of Company Secretaries of India, New Delhi.**

account to be laid before a company in Annual General Meeting relate, is called a "financial year".

It is pertinent to quote Section 210(4) of the Companies Act, 1956, here. As per section 210(4) a financial year may be less or more than a calendar year, but it shall not exceed fifteen months. The financial year may extend to eighteen months, where special permission has been granted in this connection by the concerned Registrar of Companies [Proviso to section 210(4)]. Thus, annual accounts may be prepared for a period up to eighteen months with the special permission of the Registrar.

POSITION UNDER NEW COMPANIES ACT,2013

Section 2(41) of the Companies Act, 2013 has very clearly defined the term 'financial year'. This amendment to Companies Act 2013 has brought in to align with the provisions of Income Tax Act 1961.

As per section 2(41), financial year in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incoporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up.

This means, a private or public company's financial year should start from 1st April and end on 31st March of the next year. If it's a newly incoporated company then we have to look into the date of incorporation.

If incorporation date is before 1st January then financial year ends on coming 31st March otherwise it will be the period ending on 31st day of March of the following year.

For examble, if a company is incorporated on 6th January, 2015 then financial year as per section 2(41) would be starting from 6th January, 2015 and will end on 31st March 2016.

Instead of 6th January 2014, if it is incorporated on 22nd December 2014 then financial year will be from 22nd December 2014 to 31st March, 2015.

Section 2(41) further specifies that if a company or body corporate is a holding or subsidiary of a foreign company and for this reason they are required to follow a different financial year for consolidation of its accounts outside India then Tribunal if satisfied, may allow any other period as the company's financial year, whether or not that period is a year.

Companies or body corporate, existing on the date of commencement of Companies Act, 2013, shall comply with this section within a period of 2 years from such commencement and align with the new financial year ending on the 31^{st} day of March.

This means a number of companies, including large ones such as HCL Technologies (which follows the year ending June) and Ranbaxy Laboratories (which follows the calendar year) have to adjust their accounting cycles in coming days.

For instance,
Morgan Ventures Ltd has informed BSE that:

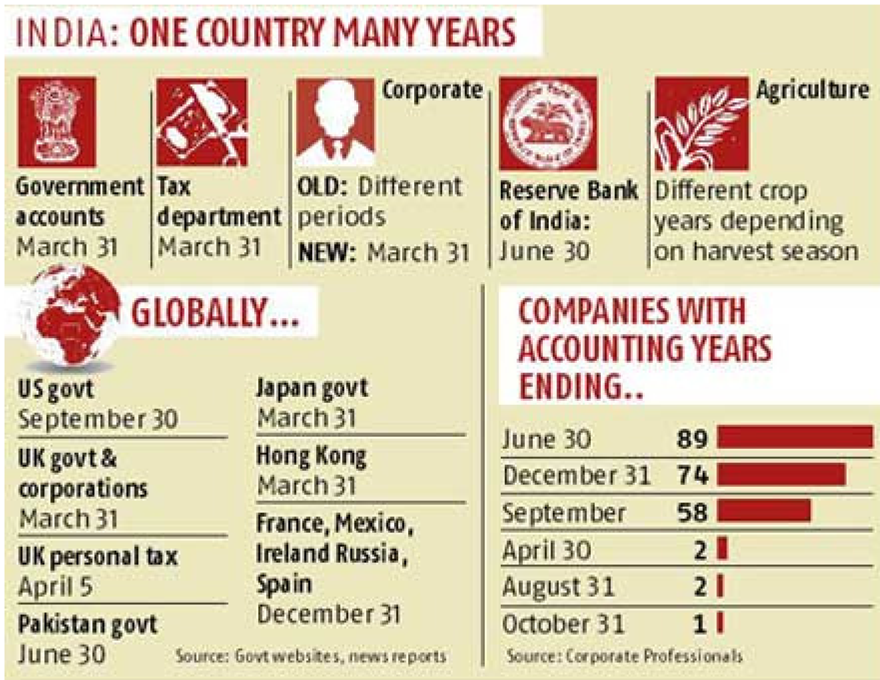
"As per Section 2 (41) of Companies Act, 2013 the financial year must be ended on 31st March every year. It further provides that the existing company shall, within the period of two years from such commencement, align its financial year as per the provisions of Section 2(41) of Companies Act, 2013.

In respect of the above, we would like to inform you that our Company closes its financial year as on 30th June every year and to align with the provisions of Section 2 (41) of Companies Act, 2013, we want to close our financial year on the coming March 31, 2015 by preparing the Financial Statements for a period of 9 months commencing from July 01, 2014 to March 31, 2015."

[Source: BSE - www.bseindia.com]

According to the data available, as many as 226 listed companies don't follow financial years ending on 31^{st} March. Of these, 74 follow the calendar year for accounting; 58 follow the year ending September, while 89 follow the July-to-June financial year. A few listed companies follow the financial year ending April, August and October.

Today, different accounting years are followed within different government agencies. While the Union government continues to follow the April-March year, the Reserve Bank of India (RBI) follows the July-June year. Agricultural commodities such as sugar, paddy and wheat have different crop years, aligned to their respective harvest seasons.



One of the primary reasons for different accounting years is the cyclicality of the business. "Most companies in the sugar industry follow the July-June year because typically, the sugar season starts in September. In March, most of these have stocks in their books. By June, all the stocks are sold and the books look very good. This practice would come to an end."
Another reason for following different accounting years is consolidation of accounts with a foreign parent or a subsidiary. Several multinational company arms operating in India follow the calendar year or the July-June year for accounting. Nestle India, Ambuja Cements, Bosch, Glaxo Smithkline, Thomas Cook are among the 74 companies that follow the calendar year. Siemens closed its books in September, while Procter and Gamble and Gillette ended the financial year in June.

As stated before, the Companies Act, 2013, however provides for such companies to move to the Tribunal and seek an exemption. Many private and public companies which are subsiduaries or holding of foreign companies have approached the Company Law Board (as NCLT is not yet constituted) seeking change in financial year.

C/P NO.	DATE OF PETITION	DESCRIPTION
02/05/2015	02.07.2015	M/s Toyo Ink India Pvt. Ltd.
02/04/2015	02.07.2015	M/s Normat India Pvt Ltd.
02/06/2015	02.07.2015	M/s Nestle India Ltd.

NESTLE INDIA LTD.

The Company has informed BSE that pursuant to provisions of Section 2(41) of the Companies Act, 2013, the Company has received Order of the Hon'ble Company Law Board, New Delhi allowing the Company to continue with the calendar year as its financial year starting from 1st day of January and closing on 31st day of December for the year 2015 and to continue its financial year commencing on 1st January and closing on 31st December for the years to come.

While it may be easy for a company following the calendar year to extend the period by three months, the same may not be easy for companies that follow the year ending June. These companies will have to go for truncation of the period. Analysts doing comparisons and calculating earning per share for listed companies will have to be very careful.
Existing companies when bringing the Financial Year in line according to the requirements will have to give comparative figures under each head of accounts such as sales, overheads and operating profit for the previous period. The comparative situation is eroded for two consecutive years, the year you make the adjustment and the following one.

The move is in line with the bigger picture. "The new provision will bring more transparency and uniformity and will be in harmony with other steps such as implementation of IFRS (International Financial Reporting Standards) and XBRL (Extensible Business Reporting Language)." IFRS is the globally applicable common reporting norms issued by international accounting body International Accounting Standards Board, while XBRL is a machine-readable reporting format developed for financial reporting. Also job work of the officials in companies that don't follow the year ending March would now be easier, as earlier they had to maintain separate books for tax purposes, as according to the country's tax rules the date of year closure is March 31.

The Ministry of Corporate Affairs' move to bring uniformity in the corporate sector could be the first step towards harmonising different sectors in the economy.

- ✓ *(Performa of application for changing the F.Y is attached for ready reference).*

APPLICATION FOR DIFFERENT FINANCIAL YEAR UNDER COMPANIES ACT, 2013
Form No 6

(See Regulation 52)

BEFORE THE COMPANY LAW BOARD

REGIONAL BENCH (NEW DELHI/KOLKATA/MUMBAI/CHENNAI)

IN THE MATTER OF THE COMPANIES ACT 2013

SECTION 2 (41)

AND

IN THE MATTER OF XYZ PRIVATE LIMITED (Petitioner)

Details of Petition

1. Name, CIN, financial year, main business, registered office address, valid e-mail address and telephone numbers of the petitioner company / body corporate
2. The name and office address of the directors, CEO and company secretary of the petitioner company
3. Name of the foreign holding company / subsidiary company (incorporated outside India with whom company is aligning its financial year)
4. Foreign Registration No of the holding / subsidiary company
5. Current Financial Year of the holding / subsidiary company
6. Proposed Financial Year of the holding / subsidiary company
7. Facts of the case
8. Justification of the case
9. Relief sought
10. List of enclosures

Date

Place

Signature of the Petitioner

List of enclosures:

1. Proof of intimation to concerned registrar of companies (Reg. 14(3))
2. Board resolution passed by petitioner company
3. Certified copy of latest balance sheet of holding / subsidiary company incorporated outside India, with whom Petitioner Company is aligning its financial year. Duly certified by notary public of such country.
4. Board resolution or consent on the letter head of the holding / subsidiary company incorporated outside India duly notarized and apostillised if such country is a signatory to the Hague Apostille Convention,
5. Memorandum of Appearance as per Ann II (Form 5) / Vakalatnama
6. Affidavit verifying the petition (Reg. 14(5))
7. Demand draft of Rs. 5,000/- in favor of Pay and Accounts Officer, Ministry of Corporate Affairs, payable at New Delhi / Kolkata / Mumbai / Chennai as the case may be
8. Any other document can be enclosed optionally

APLLICATION FEES: RUPEES 5000/-