

CHAPTER II: MINISTRY OF CORPORATE AFFAIRS

2.1 Data analysis of MCA21

2.1.1 Introduction

The Ministry of Corporate Affairs (MCA/ Ministry) is primarily concerned with the administration of the Companies Act, 1956 and 2013, the Limited Liability Partnership Act, 2008, other allied Acts, and Rules and Regulations framed there under mainly for regulating the functioning of the corporate sector in accordance with the law. Broadly, the Ministry performs two categories of functions: (i) policy functions involving formulation of legislation and subordinate legislation, and (ii) regulatory functions involving administration of Acts and Rules made there under.

The Ministry launched MCA21 project in February 2006. The project is an e-Governance initiative covering all aspects of incorporation and regulation of companies as defined under the Act. It is an end to end program envisaging electronic filing of documents, registration of companies and public access to corporate information online through a secure interactive portal. The portal services can be accessed/ availed from anywhere, at any time that best suits the corporate entities, professionals and the public at large. The project was approved by Cabinet Committee on Economic Affairs (CCEA) on 2 February 2005 at an estimated cost of ₹345.89 crore for a six-year project period. After development of system application, data centre, disaster recovery centre and rollout in all the project locations¹, the project commissioned its full-scale operation from 17 January 2007.

The first phase of the project was awarded (March 2005) to M/s Tata Consultancy Services Ltd., called as the Operator, on Build, Own, Operate, Transfer (BOOT) model. After the expiry of the first phase in 2013, the project commenced its second cycle (MCA21 Version-2) on 17 January 2013. M/s Infosys Limited was selected as service provider for this cycle for a period of six and a half years, extendable by two more years. M/s Infosys Limited was to provide services for transitioning of the existing MCA21 systems and related services and enhancing the same with continued maintenance and operations services.

National Institute of Smart Government was nominated as Project Monitoring Unit for both the phases of the project. An agreement was also signed in this regard between National Institute of Smart Government and the Ministry wherein the former was envisaged to carry out the task of assessing the operator's performance to the service levels as described in the Master Services Agreement. Third phase of the project was awarded to M/s L&T Infotech on 31 December 2019. The broad scope of work for the third phase included transition of MCA21 version 2; design, development, implementation, operation and

¹ Project locations refer to the Ministry of Corporate Affairs and the offices of the Regional Directors and the Registrars of Companies across the country

maintenance of MCA21 version 3 application; and roll out of infrastructure at different offices of the Ministry, etc.

2.1.2 Objectives of MCA21

The key objectives planned for the project were as follows:

- Online incorporation of companies and change of name and address of the companies electronically,
- Filing of Forms and Returns,
- Registration as well as verification of charges² anytime and from anywhere,
- Inspection of public documents of companies anytime from anywhere,
- Building up a centralised database repository of corporates operating in India, and
- Timely redressal of investor grievances.

2.1.3 Organisational set up

The Ministry of Corporate Affairs has a three-tier organisational set up for the administration of Companies Act, Limited Liability Partnership Act and other allied Acts and Rules. This three-tier set up consists of the Secretariat at New Delhi, the Regional Directorates at Mumbai, Kolkata, Chennai, Noida, Ahmedabad, Guwahati and Hyderabad, and 26 offices of Registrar of Companies. In addition, there are 19 offices of Official Liquidators who are attached to various High Courts functioning in the country. MCA21 project is implemented in the offices of Registrar of Companies, Regional Directorates and MCA Headquarters which works as Back office.

2.1.4 Electronic Forms

An Electronic Form (e-Form) is a re-engineered conventional form and represents a document in electronic format for filing with the MCA through the internet. This may be either a form filed for compliance or information purpose or an application seeking approval from the Ministry.

MCA21 comprises around 100 e-Forms to enable stakeholders to fill-in the required information. These e-Forms have been grouped under the following broad categories:

- (i) **Company Registration:** This comprises mainly the forms relating to approval for name of the Company, application for incorporation of the Company, and intimation about registered office and directors of the Company.
- (ii) **Compliance Related Filing:** This comprises the forms for statutory filing of returns such as allotment of shares for consideration other than cash, buyback of securities, appointment of Managing Director, Whole-time Director and Auditor, Statutory Report and Cost Audit Report.

² *Charges created on the assets of a company in favour of lenders to serve as collateral security*

- (iii) **Change Services:** This comprises forms relating to change in capital structure of the Company, change in situation of Registered office of the Company, change of Directors, Manager and Secretary, etc.
- (iv) **Charge Management:** This comprises forms relating to creation and modification of charge on various types of assets of the Company in favour of lenders.
- (v) **Investor Services:** This comprises forms relating to complaints filed against the Company by an investor.
- (vi) **Approvals relating to Managerial Personnel:** This comprises forms relating to approval for increase in the number of directors, fixing of remuneration of directors, modification in terms and conditions of appointment of directors, etc.
- (vii) **Approval Services:** This comprises forms for approval by the MCA, Regional Directors and Registrar of Companies, as required under various provisions of the Companies Act.
- (viii) **Informational Services:** This comprises forms for filing of various types of information with the Registrar of Companies such as resolutions, declarations and agreements.
- (ix) **Annual Filing:** This comprises forms for filing of the Annual Return and Balance Sheet and Profit & Loss Account of the Company.

2.1.5 Master Services Agreement with the operator

A Master Services Agreement was signed between the MCA and the Service Provider to govern the manner in which the Service Provider shall implement the project and deliver the services specified under the agreement and the Service Level Agreement. According to the Master Services Agreement, the payment should be made to the Service Provider at the end of each quarter after satisfactory delivery of the service in equated quarterly instalments. The payment was to be made for services such as transition from existing version of MCA21, operation and maintenance, renewal/ replenishment of storage devices, computer infrastructure, software licenses, etc.

2.1.6 Audit scope, methodology and objectives

2.1.6.1 Planned Scope: The scope of audit initially was intended to cover the evaluation of Information Technology (IT) application controls and their effectiveness in achieving the organisational objectives. The audit was intended to cover issues related to IT in the second version of MCA21, for which M/s Infosys Limited was the Service Provider.

At the commencement of IT Audit of MCA21 in July 2018, Audit requested access of the MCA21 system to examine input and output controls, data processing, data validation in the live environment. However, the Ministry denied this request stating verbally that Audit did not have a working role in the process of MCA21. In the absence of access to live environment, it became impossible for Audit to check the input, processing and output mechanisms and controls built into the system for the successful administration of the

Companies Act and other Rules and Regulations framed under it. Thereby, Audit could not derive assurance about the efficiency and efficacy of the live system. As the access to live environment was not made available to Audit, the Ministry was requested (January 2019) to provide the data dump of MCA21. Audit noticed that the processes of MCA21 were managed through various e-Forms in the MCA21 portal and the data of MCA21 was voluminous. Hence, it was decided by Audit to analyse the data of 10 e-Forms.

The data pertaining to April 2016 to March 2019 in respect of 10 e-Forms and seven services was called for analysis (**Annexure-XV**). In view of voluminous data of MCA21, it was agreed that Ministry would provide data relating to one e-Form to Audit for analysis. If the supplied data proves to be useful to audit for analysis, the data relating to the remaining e-Forms would be provided by the Ministry. Audit accordingly sought the data relating to one e-Form viz. Simplified Proforma for Incorporating Company Electronically (SPICe), which was designed for incorporation of the companies. However, the Ministry provided only partial data relating to SPICe e-Form. Out of 13 files furnished to Audit, only three files i.e., DIN Master, Company Master and Nominees were found relevant, while the other 10 files did not relate to the SPICe e-Form.

Further, the allied forms of SPICe, which comprised the entire workflow of incorporation of a company were not provided, due to which, Audit faced constraints in examining and deriving assurance about the efficacy of the system to handle issues relating to incorporation of companies.

2.1.6.2 Scope Limitation: Audit was restricted in its scope, due to inadequate support from the Ministry in providing information/ data/ replies which were crucial to audit. Consequently, Audit was unable to derive an assurance about the efficacy of the MCA21 system as a whole.

Audit proceeded with analysis of the available data of the MCA21 system with the limited audit objectives to ascertain whether:

- the SPICe e-Form supported the targeted business process and ensured compliance with applicable rules and regulations, and
- the application, in the above context, was able to identify and flag discrepancies of data captured and provided for requisite corrective action.

Audit checks were carried out on the data provided by the Ministry in May 2020. The results of data analysis were subsequently cross-verified, on a test-check basis, in the office of Registrar of Companies, Delhi and Central Registration Centre, Manesar.

2.1.7 Audit Criteria

Audit criteria were derived from IT Act, 2000; IT Audit Manual of the CAG of India; relevant e-governance standards, guidelines and framework published in <https://egovernance.gov.in>; Guidelines of the Ministry of Electronics and Information

Technology (MeitY) in respect of e-governance contracts; Companies Act, 2013 with allied Rules and Cabinet Notes.

2.1.8 Audit Findings

The findings that emerged from the data analysis of files provided by the Ministry in May 2020 (DIN³ Master and Company Master containing 58,01,744 and 20,08,456 records respectively) have been discussed in the succeeding paragraphs.

2.1.8.1 Issues relating to Director Identification Number (DIN)

A. More than one DIN allotted on same Permanent Account Number (PAN)

Sections 153 and 154 of the Companies Act, 2013 stipulate that an individual willing to act as a director in any Company must apply for a DIN and within one month of such application, the DIN would be allotted to the individual. Section 155 of the Act provides that no individual who has already been allotted a DIN should apply for, obtain or possess another DIN. If a director uses more than one DIN, it is a prima facie evidence of the violation of Companies Act, 2013 and considered as an offence under Section 159 of the Act. Further, risk of use of second DIN by an individual for fraudulent purpose cannot be ruled out.

During analysis of DIN Master file, 6,78,161 records were found where 2,33,898 PANs had more than one DIN allotted there against. The status of those DINs, as shown in the DIN Master file, was as under:

Table 3.1: DINs allotted against the same PAN

DIN Status	Number of DINs
Blank ⁴	178
Approved	27,429
Deactivated ⁵	1,75,033
Disabled ⁶	1,29,194
Lapsed ⁷	3,45,965
Provisional ⁸	286
Rejected	33
Surrendered	43
Grand Total	6,78,161

³ Director Identification Number

⁴ 'Blank' Status means no data was found in the Status field.

⁵ Non-filing of annual KYC by a DIN holder by the due date leads to deactivation of DIN.

⁶ The Ministry made (31 May 2011) it mandatory for DIN applicants to provide their PAN and directed previous DIN holders to add their PAN details within specified time, failing which the DIN is disabled.

⁷ An applicant who has been allotted Provisional DIN has to apply for regular DIN within 60 days, failing which the provisional DIN lapses.

⁸ After making an online application for DIN, a Provisional DIN is generated. After generation of Provisional DIN, the applicant has to make formal application for DIN along with the specified fee for allotment of regular DIN.

Further analysis of the data revealed the following:

(i) Out of 6,78,161 records where more than one DIN was allotted against the same PAN, in case of 27,429 records, the status of DIN was shown as 'Approved'. It was seen that out of 27,429 records, 63 individuals were issued more than one DINs on same PAN and the DINs were shown as approved in the database. This showed that system could not validate the check on the basis of PAN while processing the allotment of DIN. Out of 63 cases, in 52 cases second/ duplicate DIN was allotted during the period covered under audit. On examination of 20 cases (**Annexure-XVI**) out of the aforesaid 63 cases in Registrar of Companies, Delhi (January 2021), it was found that more than one DIN on one PAN were approved in all 20 records but their present status was found deactivated. However, the risk in respect of deactivated DINs continues as these can be restored after performing KYC by the DIN holder.

The Ministry, while accepting that certain validations were not in place, replied (June 2021) that earlier when duplicate DINs were marked as lapsed by MCA, multiple/ duplicate DINs having active association with companies/ LLPs were skipped. For the same, Form DIR-5 (for surrender of DIN) was introduced. A related validation at the back office was also not working. With the introduction of Form DIR-3 KYC, only one DIN of an individual could be KYC verified and hence other DINs were marked as 'Deactivated due to non-filing of KYC' resulting in removal of duplicate DINs by the system.

In respect of the 63 cases pointed out by Audit, the Ministry analysed the data extracted by it in April 2021 (audit checks were on data of May 2020) and intimated that it has extracted the latest status of all such DINs and have observed that not more than one DIN against each PAN has status as 'Approved'. The Ministry, however, admitted that still, in two cases an individual has performed KYC for both DINs allotted against the same PAN. In order to restrict such cases, the Ministry proposed to introduce a check at DIR-3 KYC web in order to stop KYC verification where it has already been performed for a DIN issued against the same PAN.

Hence, it is evident that requisite basic validations, treating PAN as the unique identifier for preventing allotment of more than one DIN were still not in place.

(ii) Out of 6,78,161 records, in 43 records the status of DIN was shown as 'Surrendered'. While comparing the DINs under the category of 'Approved' and 'Surrendered', it was found that 28 individuals surrendered one out of the two allotted DINs after the allotment of the next DIN. It showed that the system could not validate the check on the basis of PAN while processing the allotment of more than one DIN. Out of those 28 cases, in 13 cases second/ duplicate DIN was allotted during the period covered under audit. The Ministry did not furnish reply to the audit observation.

(iii) On comparing the DINs under the category of 'Approved' and 'Deactivated', it was found that out of 6,78,161 records, in 1,757 cases, more than one DIN was allotted of which, one DIN was deactivated on later date. In such cases, both DINs with same PAN remained active before deactivation of one DIN. In 298 out of these 1,757 cases, second/

duplicate DIN was allotted during the period covered under audit. The Ministry did not furnish reply to the audit observation.

Thus, the system did not generate any alert (red flag) to caution the Registrar of Companies regarding an individual who applied for allotment of more than one DIN, prompting to take corrective action. MCA21 had no mechanism in place to auto detect this deficiency in its database.

Recommendation No. 1

Necessary input controls may be put in place so that instances such as issue of more than one Director Identification Number against a Permanent Account Number do not arise.

B. DINs having no identification particulars

System Requirement Specification Kit of e-Form DIR-3 for allotment of DIN required filling of PAN mandatorily for Indian nationals and Passport number for foreign nationals. During the analysis of DIN Master file, all ID fields viz., PAN, Voter ID, Driving Licence number, Passport number and Aadhaar Number were found blank in 10,54,824 cases. The status of DIN in these cases was as under:

Table 3.2: DINs without any identification particulars

Status of DIN	Cases where no ID was found
Blank	1,581
Approved	77
Deactivated	1,65,452
Surrendered	40
Disabled	2,25,563
Lapsed	6,60,195
Provisional	150
Rejected	1,766
Total	10,54,824

It may be seen from the above table that there were 1,65,569 cases where category of DINs was shown as 'Approved' or 'Surrendered' or 'Deactivated'. In these cases, the possibility that the individuals may have used those DINs cannot be ruled out. Further, in the absence of any information in the ID fields, the cases relating to issue of multiple DINs to an individual will go undetected.

It was also found that 2,031 DINs were allotted without IDs (Approved: 61, Surrendered: 04, Deactivated: 1,966) after 1 January 2016 i.e., after the latest revision of Form DIR 3: Application form for allotment of DIN. On examining the records of 20 DINs (**Annexure-XVII**) out of the aforesaid 61 approved DINs in Registrar of Companies, Delhi (January 2021), all ID fields were found blank in the back office. It shows that the system approved DINs even in the absence of mandatory data input. The Ministry did not furnish reply to the audit observation.

Recommendation No. 2

Adequate checks may be built into the system to ensure that all mandatory fields are either filled-in by the concerned applicant company or should be auto-populated, if captured in any other e-Form.

C. Date Fields with Blank or zero value in DIN Master

Audit observed that out of 58,01,744 records in the DIN Master file, in 2,127 records (excluding DIN showing status as 'Lapsed', 'Provisional', 'Disabled' and 'Rejected'), the 'Start date' of DIN, i.e., the date of approval of DIN, was shown as 'Zero' or 'blank'. In the absence of this, Audit could not analyse data to examine whether the second/ duplicate DIN was allotted to an individual even when his first DIN was in use, in respect of these 2,127 cases.

Audit examined 20 of these DINs (**Annexure-XVIII**) related to and managed by Registrar of Companies, Delhi (January 2021) and found that no date was recorded in these cases in the back office.

The Ministry did not furnish reply to the audit observation.

2.1.8.2 Issues relating to Directorship**A. Directorship over maximum limit**

Section 165(1) of the Companies Act, 2013 stipulates that no person, after the commencement of this Act, should hold office as a director, including any alternate Directorship, in more than 20 companies at the same time.

Analysis of the DIN Master file containing 58,01,744 records, however, revealed that 1,626 individuals held Directorship in more than 20 companies at the same time, thus violating the provisions of the Companies Act. Audit examined 20 cases out of the aforesaid 1,626 cases (**Annexure-XIX**) in Registrar of Companies, Delhi (January 2021) and found that all the 20 individuals held Directorships beyond the permissible limit. Further, the MCA21 had no inbuilt system design to identify and flag such cases for enabling Registrar of Companies to take corrective action under the Companies Act.

The Ministry, while replying (June 2021) with respect to data extracted in April 2021, accepted that certain validations were not in place. The Ministry stated that the 'number of Directorships' check was missing in SPICe+ PART B⁹ due to which few directors got appointed in more than 20 companies. The Ministry intimated that presently, out of 1,626 DINs shared, only 26 DINs are associated with more than 20 companies as per the report extracted on 9 April 2021. The Ministry informed that the necessary check with regard to number of Directorships has now been implemented.

⁹ *Audit observations were on SPICe e-form. The Ministry implemented SPICe+ form (a web enabled improved form) w.e.f. 15 February 2020. The requisite validation was not in place in the web enabled format also, as stated by the Ministry in its reply.*

The Ministry, however, did not provide supporting data/ documents with its reply for verification of the compliance made by them.

B. Number of Directors in a Company

As per Section 149 (1) of Companies Act, 2013, every company should have a minimum number of three directors in the case of a public company, two directors in the case of a private company, and one director in the case of a one person company¹⁰. A company can appoint a maximum of 15 directors. However, a company may appoint more than 15 Directors after passing a special resolution in a general meeting without the approval of the Central Government.

Analysis of data in respect of 50,601 active private companies, however, revealed that there was only one Director in 30,973 companies, while 19,628 companies were being run without any Directors. Further, in 5,710 public companies, the number of Directors was less than three. In eight active one person companies, the companies were being run without any Director.

Audit verified backend data kept with Registrar of Companies, Delhi (January 2021) to verify the factual status and to rule out data entry error. Audit examined 22 records from 50,601 active private companies (**Annexure-XX**), 23 records from 5,710 public companies (**Annexure-XXI**) and four records of one person companies (**Annexure XXII**). The results of data analysis were confirmed from the verification of backend data. This establishes that MCA21 did not have inbuilt system design to identify violations of legal/ statutory requirements and alert the Authorities to take timely corrective action.

While citing a different number of cases than intimated by Audit, the Ministry accepted that there were issues in the data validation. The Ministry replied (June 2021) that data got migrated with lesser than the minimum number of directors, at the time of migrating the data from legacy system to MCA21. Due to this reason, 19,991 Corporate Identity Numbers (incorporated prior to 2007) got migrated without any active Directors or Directors lesser than the minimum requirement. Also, many companies which were in dormant status got converted into active status without Directors or lesser than the minimum required Directors. The Ministry further stated that their technical team would analyse the cases of eight active one person companies without any Director.

Audit is of the view that migration of legacy data into a new system should have been subjected to strategic checks as it was fundamental for maintaining data integrity.

2.1.8.3 Blank PAN field in Active Companies

PAN is a 10 digit unique alphanumeric number issued by the Income Tax Department. The fourth character of PAN represents the status of the PAN holder.

¹⁰ *One Person Company means a company which has only one person as a member.*

The Ministry of Corporate Affairs has made it mandatory to provide PAN for incorporation of a company. The SPICe e-Form has a provision to enable the company to apply for PAN simultaneously along with SPICe submission.

In this regard, Audit while analysing the data file (Company Master), observed that out of 20,08,456 records of Companies, PAN field in respect of 8,53,254 Companies were blank in the database. Out of these, 1,37,602 companies were found to be active. Further, in case of 2,805 companies, PAN mentioned in the database belonged to an individual instead of a Company.

During verification of the Audit observation from the back office in Registrar of Companies, Delhi (January 2021) Audit did not find the field for Company PAN. Out of 2,805 companies, Audit verified 20 records (**Annexure-XXIII**) from the Annual Return (e-Form MGT-7) of the Companies which was available in the back office and noticed that Individual's PAN (fourth character as 'P') were filled instead of Company's PAN. Also, the MCA21 database provided for a PAN data of 15 characters instead of restricting it to 10. It was also possible to enter lesser or more characters instead of the appropriate 10-character PAN. It could not correlate a simple check of whether the PAN's fourth character was appropriate either as "C" which stands for a "Company" or "P" for an "Individual" and invalidate the incorrect data entry.

The Ministry replied (June 2021) that integration with the Central Board of Direct Taxes for issuing PAN and Tax Deduction and Collection Account Number (TAN) got rolled out in February 2017. Hence, the Companies incorporated prior to February 2017 or incorporated through Forms¹¹ INC-2/ INC-7 (other than the integrated incorporation form) may not have PAN in the system. Currently, PAN is getting updated in master data through MGT-7. However, there is no validation happening for PAN and hence many companies are giving individual/ dummy PAN while filing MGT-7 and the same is getting updated in the Company Master. Further, there is no Form which captures the PAN of Foreign Company which has a place of business in India. Hence, PAN field is blank for all Foreign Company Registration Numbers in the system.

It is evident from the reply that basic and appropriate input checks were not put in place even to update the PAN and/ or restrict individuals from submitting Individual's PAN instead of Company's PAN. There appears to be inherent design and data capture deficiencies in the forms used to collect data.

2.1.8.4 Companies with exactly the same name

As per Section 4 (2) of the Companies Act, 2013 read with Rule 8 of the Companies (Incorporation) Rules, 2014, the name of a company must not be similar or identical to name of any other existing company.

¹¹ Form INC-2 was meant for application for incorporation of a One Person Company and Form INC-7 was meant for application for incorporation of a Company other than One Person Company.

Data analysis of the Company Master file containing records of 20,08,456 companies, however, revealed that there were 11,830 cases where two or more companies had the same name. In 1,165 cases, the companies having same name were found to be active. Audit further observed that 30 of these companies were incorporated in the Audit period (2016-20).

Audit selected 20 records (**Annexure-XXIV**) in Registrar of Companies, Delhi (January 2021) to verify the observations and found that all the 20 companies had exactly the same name with different Corporate Identity Numbers. In 15 cases, the companies were within the same States, of which in eight cases, the companies had the same addresses. Requisite validation controls to detect and reject such cases was found lacking in MCA21.

The Ministry in its reply (June 2021) stated that at the time of migrating the data from legacy system to MCA21, few duplicate Corporate Identity Numbers got created and such duplicate company names got removed by updating status of one Corporate Identity Number to 'NAEF' (i.e., Not eligible for e-filing). The Ministry has also accepted that there are few companies for which duplicate Corporate Identity Numbers are still available in the system and further intimated that it has shared the list of 30 Corporate Identity Numbers, which got incorporated during 2016 to 2020, with its technical team for further analysis.

The reply of the Ministry is silent on the Audit observation regarding existence of companies with exactly same name but different Corporate Identity Numbers. However, the reply indicates that duplicate Corporate Identity Numbers also exist in the system. It establishes that the MCA21 did not have inbuilt validation capacity to identify such discrepancies and alert the authorities to take necessary remedial action. However, the Ministry, vide notification dated 21 February 2019, has made it mandatory for the companies to attach the photograph of the registered office of the company, while filing the e-Form (INC-22) for situation or change of address of the registered office of a company.

2.1.8.5 Non-availability of License number for Companies under Section 8

Section 8 of the Companies Act, 2013 deals with the provisions relating to registration of Companies with charitable objectives. Such companies are registered under this Section by issue of a license by the Central Government. After the approval of Form INC-1 for their names, such companies have to apply for licence number in Form INC-12 in the Registrar of Companies.

Out of total 20,08,456 companies in the Company Master database, there were 18,196 companies registered under Section 8 of the Companies Act, 2013. The data analysis of these companies, however, revealed that the license number in case of 8,159 companies were found to be "000000". Out of these 8,159 companies, 7,987 companies were found to be Active in status.

Audit visited (January 2021) Registrar of Companies, Delhi to verify the aforesaid observations. However, it was found that the license numbers of Section 8 companies could not be viewed from the back office. Even Registrar of Companies cannot view license number of Section 8 companies. The Ministry was requested (January 2021) to provide the details as to where the licence number could be viewed. However, in the absence of this information, Audit could not ascertain whether licence in these cases were approved and Audit could also not examine the cases, if any, where the Ministry issued incorporation certificates to Companies even after rejection of licence. Further, Section 8 Companies being non-profit organisations get some exemptions and deductions from income tax. The genuineness of the Companies claiming such advantages could not be verified with other government databases in the absence of such information. Similarly, absence of license numbers could pose difficulty in verification of those Section 8 companies with the MCA21 database that seek permission from the Ministry of Home Affairs under the Foreign Contribution (Regulation) Act, 2010.

The Ministry replied (June 2021) that they have now automated the process of generating license numbers of Section 8 companies. It was further stated that license numbers were missing for many Section 8 companies which got incorporated prior to 2006.

On examining the reply of the Ministry, it was found that out of 8,159 companies where license number of companies were found to be “000000”, 6,320 companies were incorporated after 2006 of which 6,315 companies were found to be active in status.

2.1.8.6 Reserve Unique Name Service

The Ministry introduced (26 January 2018) a new web-based application called Reserve Unique Name for reserving a name for a new company prior to its registration or for change of the name of an existing company. The Company name applied was required to comply with the Company Name Availability Guidelines.

Section 4(5) of the Companies Act, 2013 and System Requirements Specifications document meant for Reserve Unique Name service laid down that the reserved name would be valid for a period of 20 days from the date of approval in case of reservation of name for a new company and 60 days for change in name of an existing company.

Analysis of data¹², however, revealed that reserved names did not expire in 26,888 cases (out of 46,671 cases) though the applications for incorporation of companies through SPICe e-Form, were filed even after 22 to 394 days.

Audit checked 42 records (**Annexure-XXV**) to cross verify the data analysis findings to the existing actual condition with back office records in Central Registration Centre, Manesar (February 2021). Audit collected copies of system generated ‘letter of approval for availability of name for the proposed company’ as issued to the applicants, wherein the

¹² *Analysis by matching records of two different files i.e., ZMCA_SRN_History2 and ZMCA_MCA_INC_29_0406*

validity of availability of the reserved name was also mentioned. It was noticed that the system allowed processing the application for incorporation of the Company with the name reserved earlier, even after the expiry of validity of the name. Moreover, the name remained blocked for unusual period which could have been issued to some other company.

The Ministry replied (June 2021) that clause (1) of Sub-section (5) of Section 4 of the Companies Act, 2013 had been notified on 23 January 2018 and was effective from 26 January 2018. Hence, validity period for all names which got approved till 25 January 2018 was to be considered as 60 days from the date of application. For the names which got approved post 25 January 2018, name reservation period was 20 days from the date of approval. Out of 26,888 cases pointed out by Audit, 11,922 cases pertain to the period prior to 26 January 2018 and hence, name validity period should be considered as 60 days from the date of application. Based on the updated logic, except 79 cases, all other forms for incorporation of companies got filed within the validity period of name reservation. For the remaining 14,966 cases, except 308 cases, all other forms for incorporation got filed within the validity period of name reservation. Name might have got extended for the above mentioned 308 cases plus 79 cases based on Ministry's approval along with Change Requirement Form or the name expire batch file might not have run due to some technical issues.

Even after considering the updated logic as stated by the Ministry, the number of cases where SPICe e-Forms got filed beyond the validity period of name reservation was 79. However, Audit also re-examined the 11,922 cases pertaining to the period prior to 26 January 2018 on the basis of the criteria stated by the Ministry and noticed that instead of 79 cases as stated by the Ministry, 865 cases were accepted by the system even after the expiry of validity of the name. Thus, proper validation was not in place in both the scenarios i.e., before the effective date of aforesaid notification and even after the notification.

Recommendation No. 3

Necessary validation checks may be built in the system to generate red flags/ alerts to the concerned Authority, where input data does not meet the requirements of the provisions of the Companies Act.

Recommendation No. 4

The Ministry may explore due business process re-engineering so that risks of inaccuracy in the data arising out of multiple points of data entry/ capture can be mitigated.

Recommendation No. 5

The Ministry may consider checking and verifying the data in all other e-Forms and ensure that requisite validation checks have been incorporated to avoid risk arising from data deficiencies in the software.

2.1.9 Non-cooperation from the Ministry in production of records/ documents

The Ministry provided data after considerable delay and even then it was not complete and relevant. Data was received in two tranches viz., on 13 June 2019 and 4 May 2020. In the second tranche, instead of providing remaining data of SPICe and allied e-forms for the requested period (2016-19), the Ministry provided Service Request Number (SRN) history data file containing data of around 10 crore records relating to the period 2007-2020 stating that data contained in file cannot be separated on the basis of e-Form ID/ name. As a result, Audit could not analyse it for the intended purpose. The Ministry did not provide data of Date field¹³, which was crucial for audit analysis.

Audit issued findings on data analysis to the Ministry on 4 December 2019 and 25 August 2020. Thereafter, Audit pursued it at different levels in the Ministry but the Ministry did not furnish response to the Audit findings. Audit compiled the findings and issued observations in the form of a factual statement to the Ministry on 9 March 2021, followed by an Addendum on 1 April 2021, requesting to confirm the facts and figures mentioned in the Audit observations. The Ministry furnished a partial reply in June 2021 to the Audit observations, which has been incorporated in the Audit para.

2.1.10 Conclusion

Audit faced constraints due to failure of the Ministry to provide requisite data, information and documents to Audit. Due to inadequate support from the Ministry, Audit was unable to derive an assurance about the efficacy of the MCA21 system as a whole. Further, since partial data of only one e-Form (SPICe e-Form) was provided by the Ministry, Audit faced constraints in examining and deriving complete assurance about the efficacy of the system to handle issues relating to incorporation of companies. Thus, Audit scope was restricted to the available information. Audit observed, as part of certain checks and as also provided in the replies of the Ministry, that in case of incorporation of a company, allied forms were introduced and revised at various times, for meeting statutory requirements, which were not integrated fully with one another, leading to validation issues.

In the limited data analysis that could be carried out, Audit observed that there were inadequate input controls and validation checks in the MCA21 system that compromised the correctness and reliability of data fed in the system. Although the Ministry carried out e-KYC drive for Directors and Companies aimed for verification of DIN holders/ companies and weeded out non-existent/ dummy records, deficiencies in the database persisted. The Ministry could not regulate such violations where stakeholders did not adhere to the provisions of the Companies Act. Therefore, risk of data being manipulated and manual overrides could not be ruled out. Effective validation ensures data accuracy. Quality data is a pillar of master data management which is essential to reaching policy

¹³ *Date field for submission of SPICe e-Form and allied e-Forms for subsequent processes relating to incorporation of Company*

conclusions based on sound facts and figures. Thus, the system needs to be strengthened further to ensure the quality of data for the benefit of all stakeholders.