

THE BARRISTER

by S.B. Jain and Associates

The latest legal updates, news and views

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What is a Trade License ?

A trade license is a document/certificate that gives permission to the applicant (person seeking to open a business) to commence a particular trade or business in a particular area/location. It ensured that the business or trade is carried by adhering to all the standards of safety as issued by State Municipal Corporation.

However, the license does not allow the holder to carry out any other trade or business than for it is issued.

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CORPORATE AFFAIRS



Relaxation of additional Fees

The Ministry of Corporate affairs has relaxed the additional fees in filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 non-XBRL up to 15.03.2022 and MGT-7/MGT-7A up to 31.03.2022 for the financial year ended on 31.03.2021 under the Companies Act, 2013. During the said period only, normal fee shall be payable.

Report on Corporate Social Responsibility CSR-2

The Ministry of Corporate affairs through a notification dated 11th Feb 2022 notifies that every Company covered under the provision of Section 135(1) of the Companies Act, 2013 shall furnish a report on its Corporate Social Responsibility in the form CSR -2 to the ROC for the preceding financial year 2020-2021 and onwards as an addendum to Form AOC 4 (or AOC 4 XBRL or AOC 4 NBFC as the case may be). Last date for filing CSR-2 for the financial year ended on 31.03.2021 is 31st March, 2022.



TAXATION



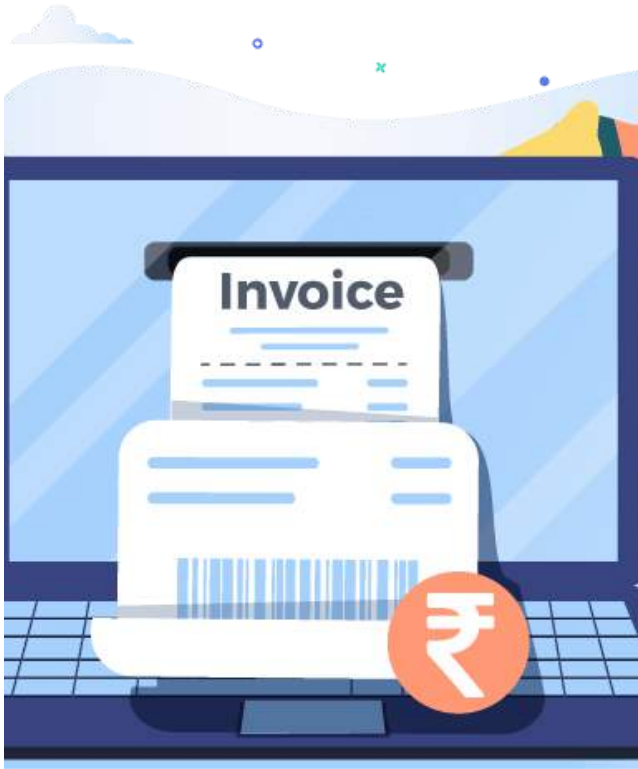
Module wise new functionalities deployed on the GST Portal for taxpayers

Various new functionalities are implemented on the GST Portal, from time to time, for GST stakeholders. These functionalities pertain to different modules such as Registration, Returns, Advance Ruling, Payment, Refund and other miscellaneous topics. Various webinars are also conducted as well informational videos prepared on these functionalities and posted on GSTNs dedicated YouTube channel for the benefit of the stakeholders.

Upcoming GSTR-1 enhancements & improvements

- The statement of outward supplies in FORM GSTR-1 is to be furnished by all normal taxpayers on a monthly or quarterly basis, as applicable.
- The present two-step filing of GSTR-1/IFF involving 'Submit' and 'File' buttons will be replaced with a simpler single-step filing process
- Taxpayers will now be shown a table-wise consolidated summary before actual filing of GSTR-1/IFF. This consolidated summary will have a detailed & table-wise summary of the records added by the taxpayers.





GST e-invoice mandatory for businesses with ₹20 crore turnover

The Central Board of Indirect Taxes & Custom (CBIC) has lowered the threshold for mandatory issuance of e- invoice (electronic invoice) under Goods & Services Tax (GST) to ₹20 crore from the earlier prescribed limit of ₹50 crore.

It means businesses with turnover of ₹20 crore or more will have to issue e-invoice from April 1. If the invoice is not valid, ITC (Input Tax Credit) on the same cannot be availed by the recipient, besides attracting applicable penalties.

Missing ITR filing for even 1 year can lead to higher TDS

Budget 2022 has further tightened the rules for non income tax return filers. Currently, if an individual did not file income tax returns for previous two years and the TDS and TCS in each of these years exceeded Rs 50,000 then the person would be liable for TDS/TCS at higher rates in the ongoing financial year. Budget 2022 proposes to apply the above provision if income tax return has not been filed for the previous one year instead of two years.





Consent Of Parties Not Necessary To Dissolve Marriage On Ground Of Irretrievable Breakdown

The Supreme Court observed that the consent of the parties is not necessary to order the dissolution of marriage on the ground of irretrievable breakdown under Article 142 of the Constitution.

In this case, the High Court reversed the decree of dissolution of the marriage between a couple. The Family Court had earlier allowed petition filed by the husband seeking divorce on the ground of cruelty.

Bank Can't Deny Existence Of Account After Returning Cheque With Remark 'Account Frozen'

If a cheque is returned by a bank with an endorsement "account frozen", then it presupposes the existence of the account, observed the Supreme Court in a recent case.

The Court expressed surprise at the stand of the bank that the no such account was maintained and operated by it, despite returning the cheque with the remark "account frozen".



Trade License

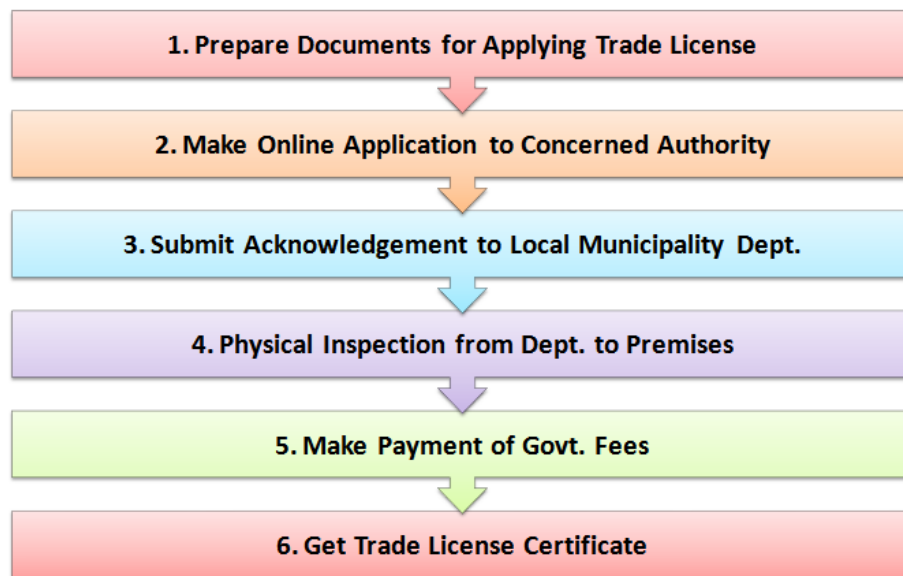


Trade license came into existence nearly four decades back and is being governed via Municipal Corporation Act. The Trade license promotes fair trade practice and seeks to safeguard the public from health hazards of any trade, and it has been made mandatory by the Indian government to conduct any kind of business or trade-in particular locality & to ensure that no one is leveraging unethical business practices. The license seeks to instill harmony in society and mandates business owners to comply with underlying guidelines.

WHY TRADE LICENSE?

- In the last forty years, trade license has been introduced in the country and is being regulated through municipal corporation acts by the state governments.
- This helps in ensuring that no one is severally affected by nuisance and health hazard of any trade or business.
- It has been made necessary by the government to carry out any particular business or trade in a particular area and to ensure that no one is carrying out any unethical business practices.
- This license creates a harmony in the society that every business is following relevant rules, guidelines and obeying the safety measures.
- The core objective of issuing a this is to control the locations by restricting the people from executing certain types of businesses from their home location to maintain the business environment and locality environment.

TRADE LICENSE REGISTRATION PROCESS



PROCESS/STEPS TO GET TRADE LICENSE ONLINE

- Step 1 : Head over to the Municipal Corporation Website and create an account
- Step 2 : Open the licensing section enlisted under the option "Department."
- Step 3 : Select "Trade license" and the new e-form shall open on the screen
- Step 4 : Fill in the relevant details in the form as requested.
- Step 5 : Next, upload the documents mentioned above in the prescribed format.
- Step 6 : Once done, wait for the portal to open the payment window. Submit the required fees and take the acknowledgement slip

COMMON DOCUMENTS REQUIRED FOR APPLYING FOR TRADE LICENSE

- Business's address proof
- Applicant's identity proof
- Permanent Account Number, i.e. PAN of the applicant
- MoA, i.e. Memorandum of Association & Incorporation Certificate in case of Companies
- Property tax receipt (latest ones) in case the business place is owned, else lease document or permission letter issued by the real owner where is business is registered.
- No objection certificate, i.e. NOC issued by the nearby property owners.
- Certified Site or floor plan

FROM THE ARCHIVES

***M/s. Euro Aircon International
versus
Commissioner of Trade & Taxes, Delhi***

Present for the respondent: Mr. S.B. Jain

Date of order: 11.05.2016

WAIVER OF PRE-DEPOSIT – CONDITIONS TO ENTERTAINMENT OF APPEAL U/S 76(4) OF DELHI VALUE ADDED TAX – FIRST PROVISIO CONFERS POWERS TO ENTERTAIN THE APPEAL WITHOUT PAYMENT OF TAX BY VAT TRIBUNAL – DEFAULT ASSESSMENT OF TAX & INTEREST AND NOTICE OF ASSESSMENT OF PENALTY ISSUED ON ACCOUNT OF MISMATCH – ITC DISALLOWED AND PASSED SYSTEM GENERATED ORDER WITHOUT GIVING OPPORTUNITY TO APPELLANT – THE APPELLANT PRODUCED COPY OF ACCOUNTS AND BANK CERTIFICATE CERTIFYING TAX MENTIONED IN BILLS HAVE BEEN DEBITED WHICH PROVED ITC WAS RIGHTLY CLAIMED – APPELLANT GOT A PRIME FACIE CASE AND BALANCE OF CONVENIENCE IN HIS FAVOUR – ORDER PASSED WITHOUT PRE- FIXING ANY CONDITION TO DEPOSIT.

BRIEF FACTS OF THE CASE:

APPELLANT WAS ENGAGED IN THE BUSINESS OF AIR CONDITIONING SYSTEMS AND WAS REGISTERED WITH WARD NO.90 SINCE 01.04.2005. THAT THE APPELLANT PURCHASED GOODS FROM M/S ANKIT SALES CORPORATION A REGISTERED DEALER OF WARD 61 AMOUNTING TO RS.21,51,961/- AND CLAIMED INPUT TAX CREDIT OF RS.1,02,617/- U/S 9(2) OF DVAT ACT. THE SAID CLAIM WAS DISALLOWED AS THE SAME DID NOT MATCH WITH THE OUT PUT TAX ACCORDING TO REVISED RETURN OF THE SELLER THOUGH THE SAME MATCHED WITH THE ORIGINAL RETURN. BY A SYSTEM GENERATED DEFAULT ASSESSMENT ORDER TAX TO THE TUNE OF RS. 1,02,617. INTEREST AND PENALTY WAS LEVIED AND PENALTY OF RS.1,02,617/- VIDE ORDERS DATED 15.06.2015 U/S 33 READ WITH SECTION 86 (10) OF THE DVAT ACT, 2004 WAS LEVIED.

HELD:

A plain reading of the assessment orders passed in the case also made it clear that these orders were also system generated. OHA in impugned order held that ratio of judgment in Bhumica Enterprises was not applicable to the case because these orders dated 19.06.2015 were assailed and no challenge was made to the order dated 15.06.2015. It was surprising that ratio of the above case was not applied to the case on the ground that in the above case order 19.06.2015 were assailed. It was not the date of order which was important but the ratio of the case that system generated assessment order were not sustainable in law which was applicable. Appellant had also filed a copy of account of selling dealer which reflects the payment made by the appellant to the selling dealer Ankit Sales Corporation and bank certificate certifying that tax mentioned in the certificates had been debited in the account of M/s Euro Aircon International and verification which proved that ITC was rightly claimed by the appellant and which was wrongly denied by the lower authorities.

Appellant had got a prima-facie case; balance of convenience also lies in favour of the appellant at this stage hence application was disposed off without pre-fixing any condition as to deposit.

CASE LAW CITED:

- *Bhumica Enterprises Vs Commissioner Value Added Tax dated 28.08.2015 .*
- *Shanti Kiran Industries Pvt.Ltd. Vs. CTT (2013) 50 DSTC J 429*



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