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Removal of Auditors Before the Expiry of their Term

Section 140(1) read with rule 7(1) of the Companies (Audit and Auditors) Rules, 2014 are the relevant provisions under the companies Act, 2013 which states that the Auditor of Company can be removed from his office of Statutory Auditors before the expiry of their term by obtaining the approval of Regional Director Ministry of Corporate Affairs and then passing of Special Resolution by the company in General Meeting of Shareholders. Two important points which are required to be noted are specified as under:

1. That , the Approval of Regional Director for removal of Auditors is the First Step.
2. That, the Approval of Shareholders by passing the Special Resolution is the second step in this process.

The Concerned Auditors shall be given the reasonable opportunity of being heard by the Regional Director before taking any further step.

The e Form ADT-2 required to be filed by the company within 30 days of passing of Board Resolution which specifies the grounds on the basis of which the Company intends to file the application under section 140 (1) for the removal of auditors before the expiry of their term.

After getting the approval of the Regional Director, the company needs to conduct the general meeting within 60 days or receipt of approval of Regional director and pass the special resolution and file the Special Resolution in E form MGT-14 with the Registrar of companies.

So we can summaries process step by step as under:

1. Passing of Board Resolution for removal of auditors before the expiry of the their term and seeking the approval of Central Government (Regional Director, MCA) and authorizing any of the Director to file the Application in form ADT-2 before the Regional Director MCA.
2. Filing of Application for removal of auditors in e- Form ADT-2 specifying the grounds on which the auditors are proposed to be removed by the company.
3. The Copy of the e-form ADT-2 along with attachments be served to the Auditors for filing of their written statement/reply to the Application of their Removal from the company.

4. Further oral and written representations before the Regional Director by the Company and Auditors.
5. Passing of Order by the Regional directors on the merits of the case.
6. If Satisfied , the Regional Director issue the order of approval of ADT-2 and then company will conduct the EGM and pass the special resolution for removal of auditors within 60 days of receipt of order.
7. Filing of aforesaid special resolution in e form MGT-14 by the Concerned Company with the Registrar of Companies.

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