

A conceptual image featuring a globe with a golden wireframe grid, surrounded by numerous cardboard boxes of various sizes. The scene is set on a dark laptop keyboard, with keys like 'A', 'L', 'mode', and 'alt' visible. The globe shows the Americas and parts of Europe and Africa.

India Entry Strategy
*How to enter an Indian market
for Trading Business?*

CONTENT

- Set up a company in India
- PAN (Permanent Account Number)
- TAN (Tax Deduction Account Number)
- Shops and Establishment Registration
- Opening a Business Bank Account
- Induction of Share Capital
- GST Registration
- Professional Tax
- Import Export Code
- Provident Fund (PF)
- Employee State Insurance (ESI)
- Periodic Compliances and Year-end Audit

SUMMARY

Effective from 23rd Feb, 2020, a new integrated web based form “**SPICe+**” pursuant to the Companies (incorporation) Amendment Rules, 2020 has been introduced by Ministry of Corporate Affairs (MCA) which will facilitate:



SET UP A COMPANY IN INDIA

Brief

- Obtain Director's Identification Number (DIN) of all the directors.
- Obtain Digital signature's of all the director and subscribers of the proposed company (DSC).
- SPICE+ , Part A for name approval is to be filed with Registrar of Companies ("ROC"). [Powers of Name Reservation application and company formation application is delegated to Central Registration Centre]
- After name approval, Memorandum and Articles of Association are drafted and other Company Registration documents are prepared & filed with ROC for getting the Certificate of the Registration.
- Certificate of Incorporation is granted by Registrar of Companies and PAN/TAN will also be granted by the Authorities.



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graph TD; A[DIN Approval of one of the directors of the company] --> B[Required Details and Documents]; B --> C[DIN can be applied with the application of Incorporation of the company in Spice+  
Details and documents:  
Complete name, father's name, address, date of birth, address proof, identity proof, PAN card copy.  
If director is based outside India, his address proof, passport copy, and DIN application form are required.  
In case proposed director is holding non-Indian passport then PAN is not mandatory. This is regarding verification/ declaration of/ by the applicant for DIN. DIN number is generated online along with the Certificate of Incorporation of the company.];
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graph TD; A[Digital Signature Certificate (DSC) of one of the directors of the company] --> B[Required Details and Documents]; B --> C[Complete name, father's name, address, date of birth, address proof, identity proof, PAN, and 1 photograph of director whose digital signatures are required. If director is based outside India, his address proof, passport copy, and residence proof are required to be attested by Notary Public based outside India. In case proposed director is holding non-Indian passport then PAN is not mandatory. It takes usually 1-2 days to process DSC after necessary DSC verifications.];
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REQUIREMENTS FOR NAME APPROVAL

**Application in Web Based
SPICE+
for name approval in Part A**

Case (A)

Maximum two names can be proposed along with the main business activity of the Company and the main objects shall be attached through an attachments in pdf format in name reservation application.

Case (B)

Along with the requirement as mentioned in point (a) here, the Board Resolution and PAN card of the parent company is required if the proposed Indian company is the subsidiary of some other Indian company.

In case the parent company is foreign company, the Board Resolution and Certificate of Foreign Company has to be attested by Apostille/Indian embassy located in the country in which the parent company is registered.

NAME APPROVAL GUIDELINES

- The proposed name is not undesirable/ identical with names of existing companies
- The proposed name(s) is/are not infringing the registered trademarks or a trademark which is subject of an application for registration, of any other person under the Trade Marks Act, 1999.
- The proposed name(s) is/are not in violation of the provisions of Emblems and Names (Prevention of Improper Use) Act, 1950 as amended from time to time
- The proposed name(s) is not such that its use by the company will constitute an offence under any law for the time being in force
- The proposed name is not offensive to any section of people, e.g., proposed name does not contain profanity or words or phrases that are generally considered a slur against an ethnic group, religion, gender or heredity
- In determining whether a proposed name is identical with another, the following shall be disregarded:
 - (i) The words Private, Pvt, Pvt., (P), Limited, Ltd, Ltd., LLP, Limited Liability Partnership;
 - (ii) The words appearing at the end of the names – company, and company, co., co, corporation, corp, corpn, corp.;
 - (iii) The plural version of any of the words appearing in the name;
 - (iv) The type and case of letters, spacing between letters and punctuation marks;
 - (v) Joining words together or separating the words, as this does not make a name distinguishable from a name that uses the similar, separated or joined words. Such as Ram Nath Enterprises Pvt. Ltd. will be considered as similar to Ramnath Enterprises Pvt. Ltd.;

NAME APPROVAL GUIDELINES

(vi) The use of a different tense or number of the same word, as this does not distinguish one name from another. Such as, Excellent Industries will be similar to Excellence Industries and similarly Teen Murti Exports Pvt. Ltd. will be to Three Murti Exports Pvt. Ltd.;

(vii) Using different phonetic spellings or spelling variations, as this does not distinguish one name from another. For example, J.K. Industries limited is existing then J and K Industries or Jay Kay Industries or J n K Industries or J & K Industries will not be allowed. Similarly if a name contains numeric character like 3, resemblance shall be checked with 'Three' also;

(viii) The addition of an internet related designation, such as .COM, .NET, .EDU, .GOV, .ORG, .IN, as this does not make a name distinguishable from another, even where (.) is written as 'dot';

(ix) The addition of words like New, Modern, Nav, Shri, Sri, Shree, Sree, Om, Jai, Sai, The, etc., as this does not make a name distinguishable from an existing name such as New Bata Shoe Company, Nav Bharat Electronic etc. Similarly, if it is different from the name of the existing company only to the extent of adding the name of the place, the same shall not be allowed.

For example, 'Unique Marbles Delhi Limited' can not be allowed if 'Unique Marbles Limited' is already existing.

Such names may be allowed only if no objection from the existing company by way of Board resolution is produced/ submitted;

NAME APPROVAL GUIDELINES

(x) Different combination of the same words, as this does not make a name distinguishable from an existing name, e.g., if there is a company in existence by the name of “Builders and Contractors Limited”, the name “Contractors and Builders Limited” should not be allowed;

(xi) Exact Hindi translation of the name of an existing company in English especially an existing company with a reputation. For example, Hindustan Steel Industries Ltd. will not be allowed if there exists a company with name ‘Hindustan IspatUdyog Limited’;

In addition to above, the user shall also adhere to following guidelines: -

(i) It is not necessary that the proposed name should be indicative of the main object.

(ii) If the Company’s main business is finance, housing finance, chit fund, leasing, investments, securities or combination thereof, such name shall not be allowed unless the name is indicative of such related financial activities, viz., Chit Fund/ Investment/ Loan, etc.

(iii) If it includes the words indicative of a separate type of business constitution or legal person or any connotation thereof, the same shall not be allowed. For eg: cooperative, sehkari, trust, LLP, partnership, society, proprietor, HUF, firm, Inc., PLC, GmbH, SA, PTE, Sdn, AG etc.

(iv) Abbreviated name such as ‘BERD limited’ or ‘23K limited’ cannot be given to a new company. However the companies well known in their respective field by abbreviated names are allowed to change their names to abbreviation of their existing name (for Delhi Cloth Mills limited to DCM Limited, Hindustan Machine Tools limited to HMT limited)

(v) If the proposed names include words such as ‘Insurance’, ‘Bank’, ‘Stock Exchange’, ‘Venture Capital’, ‘Asset Management’, ‘Nidhi’, ‘Mutual fund’ etc., the name may be allowed with a declaration by the applicant that the requirements mandated by the respective Act/ regulator, such as IRDA, RBI, SEBI, MCA etc. have been complied with by the applicant.

NAME APPROVAL GUIDELINES

(vi) If the proposed name includes the word State, the same shall be allowed only in case the company is a government company. Also, if the proposed name is containing only the name of a continent, country, state, city such as Asia limited, Germany Limited, Haryana Limited, Mysore Limited, the same shall not be allowed;

(vii) If the proposed name contains any word or expression which is likely to give the impression that the company is in any way connected with, or having the patronage of, the Central Government, any State Government, or any local authority, corporation or body constituted by the Central or any State Government under any law for the time in force, unless the previous approval of Central Government has been obtained for the use of any such word or expression;

(viii) If a foreign company is incorporating its subsidiary company, then the original name of the holding company as it is may be allowed with the addition of word India or name of any Indian state or city, if otherwise available;

(ix) Change of name shall not be allowed to a company which is defaulting in filing its due Annual Returns or Balance Sheets or which has defaulted in repayment of matured deposits and debentures and/or interest thereon;

OTHER STEPS IN COMPANY FORMATION

Drafting of Memorandum and Article of Association of the proposed company

In case of Indian Subscribers, eMoA (INC-33) & eAoA (INC-34) requires to be filed & signed digitally and in case of non-resident subscribers, needs to be signed manually and subscriber sheet of MOA and AOA have to be attested by Indian embassy/ Apostille based in foreign country.

However, if the non-resident subscribers visit India on Business Visa for signing the documents for company registration, the MOA and AOA require to be signed digitally instead of manual signatures and such physical MoA and AoA have to be attached in form SPICE + to proceed with the Incorporation application.

Filing of Form SPICE + in Part B for Company Registration application

After signature and attestation documents are filed online using DSC of one of the proposed director.

Documents are processed by the ROC in approximately 2-3 working days time.

After processing the application, the company is incorporated.

Certificate of Incorporation/ Registration

Certificate of Incorporation is generated online and sent by email to registered e-mail address of the company.

APPROVAL OF PAN/ TAN OF COMPANY

PAN (Permanent Account Number)

- After Company Registration, the PAN No. will be generated alongwith the Certificate of Incorporation containing the name and date of incorporation of the Indian Company.
- It is equivalent to Tax ID prevalent in various countries. It is unique number which needs to be quoted on various invoices, bank accounts and other business registrations .

TAN (Tax Deduction Account Number)

- After Company Registration, the TAN No. will be generated alongwith the Certificate of Incorporation and PAN of the Indian Company.
- This registration is required for deducting and depositing withholding tax.
- Withholding tax is required to be deducted on major service payments to be made to different vendors. Major services on which withholding tax needs to be deducted are rent, legal charges, accounting charges, contractual payments.

SHOPS AND ESTABLISHMENTS REGISTRATION

The object of this Act is to provide statutory obligation and rights to employees and employers in the unauthorized sector of employment, i.e., shops and Establishments.

This Act lays down the following rules:

- Working hours per day and week.
- Guidelines for spread-over, rest interval, opening and closing hours, closed days, national and religious holidays, overtime work.
- Employment of children, young persons and women.
- Rules for annual leave, maternity leave, sickness and casual leave, etc.
- Rules for employment and termination of service.



OPENING A BUSINESS BANK ACCOUNT

Opening of bank account is necessary for doing business and effecting various business transactions. We can help in opening Bank Account of foreign owned Indian company with major banks having branches all across India.



INDUCTION OF SHARE CAPITAL

After opening of bank account of India Entity, the Share Capital duly subscribed by the subscribers to memorandum at the time of Incorporation shall be injected into the Bank

Account of Indian Entity. After receipt of share capital in company's bank account, intimation to Registrar of Companies is required to be filed in Form INC – 20A within 180 days/6 months of the Incorporation of the Company.

In case of Foreign equity contribution in an Indian Company, the Company shall require to intimate the Reserve Bank of India about foreign equity in Indian company by way of filing FC-GPR form within 30 days from the date of allotment of equity shares to foreign Investor.

GST (GOODS AND SERVICE TAX)

Companies intending to trade in goods and services are required to obtain GSTIN.

GSTIN mandate:

- In the GST Regime, businesses whose turnover exceeds Rs. 20 lakhs is required to register as a normal taxable person. This process of registration is called GST registration.
- For certain businesses, registration under GST is mandatory. If the organization carries on business without registering under GST, it will be an offence under GST and heavy penalties will apply.

PROFESSIONAL TAX

Business owners, working individuals, merchants and people carrying out various

occupations comes under the purview of this tax. Professional tax is levied by particular Municipal Corporations of states in India, hence applicable in few states in India.

IMPORT EXPORT CODE

The Companies intending to import goods into India or export goods out of India are required to have one time IEC Registration.



PROVIDENT FUND (PF)

The Companies having more than 20 employees on their rolls are required to have PF registration which will enable employers to deduct 12% PF from the salary of the employees. Similarly 12% employer's share can also be deposited after PF registration.

EMPLOYEE STATE INSURANCE (ESI)

The Companies having more than 10 employees (in some states it is 20 employees), drawing a salary less than Rs. 15,000/- p.m., are required to obtain ESI registration.

ESI registration helps employees to avail free/concessional medical treatment at Government recognized hospitals in India.

Notes

- *Above registrations are mandatory to do business legally in India. However after Incorporation, company can start hiring the people, sign lease deed and execute business transactions.*
- *After one time registrations, there would be periodic and year end compliances mention below in next slide.*

PERIODIC COMPLIANCES

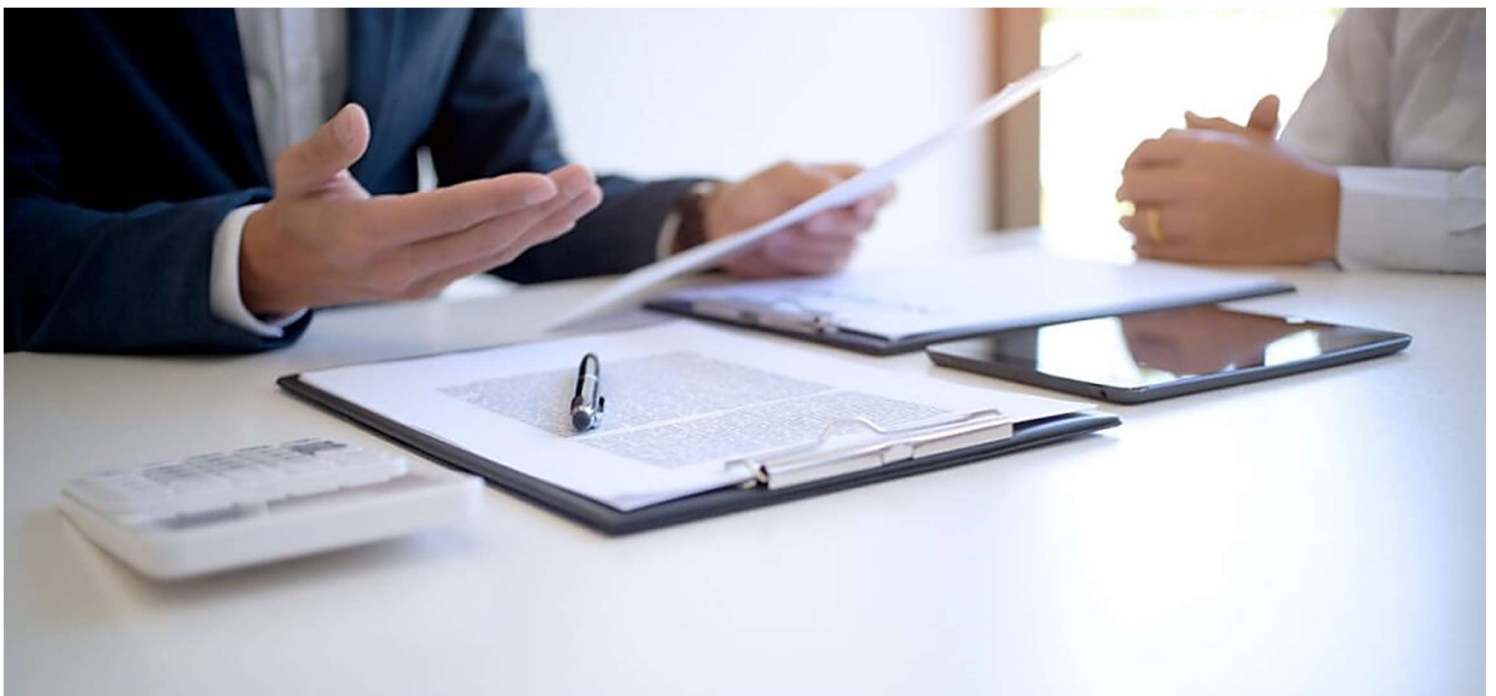
Every company is required by law to comply with various business compliances which are listed below:

- a. Maintenance of Books of Accounts
- b. Withholding Tax Compliances
- c. GST Compliances
- d. PF / ESI Compliances
- e. Payroll
- f. Various Secretarial Compliances of Registrar of Companies
- g. Income Tax Compliances

YEAR - END AUDITS

Every company is required to get following audits done at the end of the year:

- a. Statutory Audit under Companies Act, 2013
- b. Tax Audit under section 44AB of Income Tax Act, 1961
- c. Transfer Pricing Audit under section 92A of Income Tax Act, 1961. It is required only if Indian Company enters into a transaction with related party.
- d. GST Audit under GST Registration Act, 2017



ABOUT US

Neeraj Bhagat & Company is a team of distinguished **chartered accountants**, corporate financial advisors and **tax consultants in India**. Our firm of chartered accountants represents a coalition of specialized skills that is geared to offer sound financial solutions and advices. The organization is a congregation of professionally qualified and experienced persons who are committed to add value and optimize the benefits accruing to clients.

We are prominent Chartered Accountants in India. We offer services of accounts outsourcing, auditing, company formation in India, Business taxation, corporate compliance, starting business in India, registration of foreign companies, transfer pricing, tax due diligence, taxation of expatriates etc.





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