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30% Indian cos face closure for doing zero biz in last 2 yrs

New Delhi: Nearly 25-30% Indian companies — those with zero turnover during the last two years — may lose their registration as part of the Union government's latest offensive against so-called shell companies.

The ministry of corporate affairs (MCA) is planning to use provisions of Section 248 of the Companies Act to proceed against these "dormant companies" which remained passive for two consecutive years, even though they complied with the requirement to file returns, sources told **TOI**.

"The law empowers the government to strike off the name of a company under specific provisions and not having any turnover for two years is sufficient ground. If you haven't undertaken business in two years then there is some issue," said a source, who did not wish to be identified.

The law requires the government to serve a notice on the dormant companies and its directors to respond within 30 days.

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Govt crackdown likely to affect 3-4 lakh cos

The provision in the Companies Act allows the government to remove name of a company from register if it fails to commence business within a year of incorporation or if the capital subscription has not been made within 180 days or in a situation where a company has not carried on business for two years. So far, the government has de-registered over 2.25 lakh companies for not filing returns mandated under Companies Act. It is once again moving against an equal number of companies for not complying with the requirement of doing business during the last two years.

While the exact number of companies that have not undertaken business during the last two years was not immediately available, sources said the number could be as high as three-four lakh. At the end of December 2017, over 17 lakh companies were registered in the country, of which 11.4 lakh were "active". The "active" category includes those companies that have not undertaken any business for two years or more. The registrars of companies may be instructed to scrub the registers and scan for companies that have zero turnover for at least two years.

The latest action comes after a recent review of action against shell companies by a task force jointly headed by the MCA secretary and the revenue secretary. The task force set up post-demonetisation has so far classified 16,000 entities as shell companies, while another 80,000 are on the suspects list. Another 17,000 companies, which have common directors with the identified shell companies, are also on the radar. The action against shell companies is aimed at cracking down against entities which have little share capital, do little business but are used to route funds, often black money. At the same time, the government is also moving against benami holdings in companies. As first reported by **TOI** on May 30, MCA is ordering dematerialisation of all shares of unlisted companies, an exercise that will initially cover 80,000-90,000 public companies and is aimed at identifying the actual owners of the entities. Separately, directors are being asked to prove their identity.

The government is also moving against benami holdings in companies

On Wednesday, it notified pending rules on significant beneficial ownership, which requires those holding 10% or more equity, whether acting alone or with other individuals or trusts, or exercises "significant influence or control in a company through other means" to disclose their interests within the next 90 days. In future, this will have to be notified within 30 days of change of beneficial ownership.