



तार/Telegram: COMPYREG.

फैक्स/FAX: (0671) 2365361

भारत सरकार/Government of India
कारपोरेट कार्य मंत्रालय/Ministry of Corporate Affairs
कम्पनी रजिस्ट्रार -सह- शासकीय समापक कार्यालय, ओडिशा
Office of the Registrar of Companies -cum- Official Liquidator, Odisha
कारपोरेट भवन, /CORPORATE BHAWAN
द्वितीय एवं तृतीय तल/2ND & 3RD FLOOR
प्लॉट क्रमांक - 9 (पी) सेक्टर - 1, सी डी ए, ओडिशा, कटक-753014
PLOT NO. 9(P), SECTOR-1, CDA, ODISHA, CUTTACK-753014

No. ROC/S.12/2019/ARSS Developers/Penalty Order/

Dated , the 22nd October, 2019.

Order for Penalty for violation of Section 12(1) of the Companies Act, 2013.

ARSS DEVELOPERS LIMITED

CIN : U45209OR2007PLC009201

Appointment of Adjudicating Officer :-

1. The Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad. II dated 24.03.2015 appointed the undersigned as Adjudicating Officer in exercise to the powers conferred by Section 454 of the Companies Act, 2013 (herein after known as Act) read with Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of the Act.

Company :-

2. Whereas, ARSS DEVELOPERS LIMITED (herein after referred to as "the Company") is a company registered with this office under the Provisions of the Companies Act, 2013/1956 (or previous Acts in force, as applicable) having its registered office Plot No. 38, Sector : A, Zone : D, Mancheswar Industrial Estate, Bhubaneswar : 751 010 in the State of Odisha as per data available with MCA website.

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Facts about the Case :-

3. AND WHEREAS, on the basis of Inspection Report under Section 206(5) of the Companies Act, 2013 the Ministry vide its letter No. 1/28/2018/CL-II(ER) dated 03.04.2019 directed this office to take appropriate action under Section 12 (8) of the Act for violation of Section 12(3) of the Act. Accordingly, this initiated Adjudication Proceeding against the company and its officer-in-default under Section 454 of the Act for violation of Section 12 of the Companies Act, 2013. Accordingly, this office issued Show Cause Notices under Sub-Rule (2) of Rule 3 of the Companies (Adjudication of Penalties) Rules, 2014 to the company and its directors vide letter No. ROC/Sec.454/9201/2019/580(4) dated 30.05.2019, but the letters addressed to the company and its Directors (Officer -in- Default).
4. Now in terms of Section 12(1) of the Act - A company shall, on and from the fifteenth day of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notice as may be addressed to it.

AND as per Section 12(8) of the Act - If any default is made in complying with the requirements of this section, the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every day during which the default continues but not exceeding one lakh rupees.

5. AND NOW, in response to the aforesaid Show Cause Notice the company vide its letter dated 12.06.2019 stated that "when inspector visited to their office, some repair work was going on in their office premise and therefore the painted sign board containing the name and other details as per Section 12 of the Companies Act, 2013 was removed for few days and the same was again affixed after the repairing work was done". However, the Adjudicating Officer issued Show Cause Notice under Sub-Rule (3) of Rule 3 of Companies (Adjudication of Penalties) Rules, 2014 vide Notice No. ROC/Sec. 454/9201/2019/871 (4) dated 09.07.2019 to the company and its directors/officers in default directing them to appear personally or through authorized representative on 22.07.2019 at 3.30 PM before the Adjudicating Officer for hearing

on the default of Section 12(1) of the Act. In response the company furnished a email dated 23.07.2019 requested for adjournment as the above Show Cause Notice received by the company on the date of hearing. Considering the request the matter was adjourned to 25.09.2019 at 5.00 PM. On the fixed date Shri Prakash Chhajer, Company Secretary of ARSS Infrastructure Projects Limited appeared before the Adjudicating Officer alongwith Board Resolution of the company, Power of Attorney from all the Directors and Photograph of the front side of the office building clearly showing the sign board of all the group companies including the subject company affixed and again requested for adjournment to submit further documents. The Adjudicating Officer again considered his request and the matter was adjourned to 22nd October, 2019.

ORDER

On the fixed date, Shri Prakash Chhajer, Company Secretary of ARSS Infrastructure Projects Limited and authorized representative for the company and its directors appeared before the Adjudicating Officer. Shri Chhajer submitted the declaration by way of affidavit from all the directors where it is stated that "The company place a work order for repair of office compound wall including plaster and paints on 23.06.2018 to M/s. Maa Tarini Agency, Bhubaneswar and the said Agency accepted the order on 25.06.2018 and removed the sign board on the said date and completed the work on 30.06.2018. Further, it is stated that for the above purpose the signboard of the company was not in place from 25.06.2018 to 29.06.2018". Shri Chhajer also submitted the copy of the work order, bill submitted by M/s. Maa Tarini Agency and Debit Voucher. After going through the available records and considering the documentary evidence and submission of the authorized representative, it is concluded that the company and its directors who are in default are liable for penalty as prescribed under Section 12(8) of the Act for violation of Provisions of Section 12(3)(a) of the Act for 05 (Five) days i.e. with effect from 25.06.2018 (date of removal of Signboard) to 29.06.2018 (date of fixing of Signboard i.e. before on 30.06.2018) in terms of Section 12(3) of the Act. Accordingly, I inclined to impose a penalty as prescribed under Sub-Section (8) of Section 12 of the Companies Act, 2013 a sum of Rs. 5,000/- (Rupees Five thousand) on ARSS DEVELOPERS LIMITED and Rs. 5,000/- (Rupees Five Thousand) each on every director of the company who is in default viz. (i) Shri Anil Agarwal, (ii) Shri Sunil Kumar Agarwal and (iii) Shri Orri Balakrishna Rao for the defaulting period of 05 days i.e. from 25.06.2018 to 29.06.2018 (both days inclusive) @ Rs.1,000/-

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to Section 12(8) of the Companies Act, 2013 for violation of Section 12(1) of the Act. It is further directed that the amount of penalty so imposed shall be deposited by way of Demand Draft in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Kolkata" payable at Kolkata, before the Office of the ROC -cum- OL, Odisha within 90 (Ninety) days from the date of receipt of this order. It is also directed that the penalty so imposed upon the Officers-in-default shall be paid from their personal sources/Income.

Petty
22/11/2019

(A. K. SETHI)
Adjudicating Officer, Odisha
ROC -cum- OL, Odisha