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भारत सरकार/Government of India
कारपोरेट कार्य मंत्रालय/Ministry of Corporate Affairs
कार्यालय कम्पनी रजिस्ट्रार, विहार-राज-शासकीय समायक उच्च न्यायालय, पटना
Office of the Registrar of Companies, Bihar-cum-Official Liquidator, High Court, Patna
चौथा तल, 'क' खण्ड, गौर्यालोक कॉम्प्लेक्स/4th Floor, 'A' Wing, Maurya Lok Complex
डाक बंगला रोड, पटना /Dakbungalow Road, Patna-800001

No.: ROC/S-12/BR/5316/

1906

Dated: 11.10.2019

Order for penalty for violation of section 12(1) r/w 12(4) of the Companies Act, 2013

M/S. INWAYS PLANTATION INDIA LIMITED

Appointment of Adjudication Officer:-

1. Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014- Ad.II dated 24.03.2015 appointed undersigned as Adjudicating Officer in exercise of 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 adjudicating penalties under the provisions of this Act.

Company:-

2. Whereas, Company M/S. INWAYS PLANTATION INDIA LIMITED (herein after known as Company) is a registered company with this office under the provisions of the companies Act, 2013/1956 (or previous Acts in force, as applicable) having its registered office situated at Janak Place, Dariapur Gola, PS Kadam Kuan Patna Bihar, India, as per MCA website.

Facts about the case:-

3. WHEREAS, office of the Registrar of Companies, Bihar-cum-Official Liquidator, High Court, Patna, has issued letter No. ROC/Pat/Complaint/5316/1832-1835 dated 06.11.2018 to the company and its directors, however the letter addressed to the company return undelivered. Therefore it appears that the company is not maintaining registered office as required under section 12(1) of the Companies Act, 2013.

4. That, this office has issued show cause notice dated 09.05.2019 to the company and its officers, the notice addressed to the company return undelivered. Hence it appears that the provisions of Section 12 of the Companies Act, 2013 has been contravened by the company and its directors/officers and therefore they are liable for penalty u/s 12(8) of the Companies Act, 2013.

5. Sections 12(1), 12(4) and 12(8) are reproduced as under:-

Section 12(1) - "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 communication and notices as may be addressed to it".

Section 12(4) - "Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within fifteen days of the change, who shall record the same".

Section 12(8) - 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".

6. Whereas, this office had issued "Notice for Hearing" vide No. ROC/S-12/BR/5316/1803-1806 dated 16.09.2019 to the company and directors/officers in default to appear personally or through authorized representative under Rule 3(3), Companies (Adjudication of Penalties) Rules, 2014 on 04.10.2019 at 12:30 p.m. and also to submit their response, if any, one day prior to date of hearing i.e. 03.10.2019. Again the notice return undelivered.

7. That, on the date of hearing neither the authorized representative of the company nor the directors were present for hearing and also reply has not been received. Hence the Company and its directors/Officers in default are liable for penalty as per section 12(8) of the Companies Act, 2013.

ORDER

8. Having considered the facts and circumstances of the case and after taking into account the factors above, I hereby impose a penalty of Rs. 100000 (one lakh) on the company and Rs. 100000 (one lakh) on the managing director of the company under section 12(8) of the Act for failure in compliance of section 12(1), (12(4) and 12(8) of the Companies Act, 2013.

9. The noticee shall pay the amount of penalty individually for the company and its directors (out of own pocket) by way of e-payment (available on Ministry website www.mca.gov.in) under "Pay miscellaneous fees" category in MCA fee and payment Services within 90 (ninety) days of this order. The Challan/SRN generated after payment of penalty through online mode shall be forwarded to this office.

10. Appeal against this order may be filled in writing with the Regional Director (ER), Ministry of Corporate Affairs, Kolkata, within a period of 60 (sixty) days from the date of receipt of this order, in Form ADJ (available on Ministry website www.mca.gov.in) setting forth the grounds of appeal and shall be accompanied by a certified copy of this order {Section 454(6) of the Act read with Companies (Adjudication of Penalties) Rules, 2014}.
11. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.



(HIMANSHU SHEKHAR)
Registrar of Companies & Adjudicating Officer
Patna.

To

1. Inways Plantation India Limited
Janak Place, Dariapur Gola PS Kadam Kuan
Patna Bihar India.
2. Shri Rajendra Prasad
Managing Director
S/o Shri Gopi Sah
Bhanwar Pokhar Bankipur PS Pirbohore
Patna Bihar 800004

✓ Copy to:-

The Regional Director (ER)
Ministry of Corporate Affairs
234/4 A.J.C. Bose Road, 2nd MSO Building
2nd Floor, Kolkata 700020, for information please.