

GOVERNMENT OF INDIA



Ministry of Corporate Affairs
Office of Registrar of Companies,
Uttar Pradesh
37/17, Westcott Building, M.G. Marg
Kanpur -208001 (U.P.)

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No.LC/CP/ACN/ROC/UPSTOCK/19

(BY SPEED POST)
Dated '19

ORDER FOR VIOLATION OF SECTION 118(10) OF THE COMPANIES ACT, 2013, READ WITH COMPANIES

(ADJUDICATION OF PENALTIES) RULES, 2014

IN THE MATTER OF M/S U.P. STOCK AND CAPITAL LIMITED

1. The Ministry of Corporate Affairs vide its gazette notification no A-42011/112/2014-Ad.II dated 24.3.2015, has appointed the undersigned as Adjudicating Officer in exercise of the powers conferred by section 454 of the Companies Act, 2013 (hereinafter known as Act) read with Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.
2. The Company M/s U.P. Stock and Capital Limited, has been registered under the provisions of the Companies Act, on 15.11.1979, and is having its registered office situated at 14/113 Civil Lines, Kanpur – 208001, U.P. The authorized capital of the Company is Rs. 2,000,000/-
3. The Directorate (Northern Region) New Delhi, vide their letter No. Misc/Guard/JDI/2017/u/s 206(5)/2752 dated 30.05.2018, has appointed the undersigned as Inspector for Inspection of the company, in this connection it is to apprise you that during the course of inspection of the books of accounts, records and other statutory documents carried out under section 206(5) of the Companies Act, 1956 the following non compliances/irregularities were noticed : -

(a) Violation of SS – 1 : Secretarial Standard on Meetings of the Board of Directors :

- 1) As per point 7.2.1.1 of SS-1, minutes of the board meetings, shall state at the beginning the serial number of the meeting.

Further, as per point 7.2.2.1(o) of SS-1, the minutes of the board meetings shall contain the time of commencement and conclusion of the meeting.

However, on verification of the minutes sheet provided by the Company, the following points have been observed :

- (i) The Company has not mentioned the serial number for three Board meetings held on 07.07.2015, 20.07.2015 and 12.08.2015.
- (ii) Time of conclusion of the board meeting is not stated in any of the board minutes for the entire year i.e. from 07.07.2015 to 13.01.2016.

- 2) As per point 9 of SS-1, the annual report and annual return of a company shall disclose the number and dates of meetings of the Board and Committees held during the financial year indicating the number of meetings attended by each director.

However, on verification of the Annual Report for the period ending **31.03.2016**, it is observed that the company has not stated the number of meetings attended by each director in the annual report.

(b) Violation of SS-2 : Secretarial Standard on General Meetings (For the year ended 31.03.2016):

As per point 17.2.1.1 of SS-2, minutes of the general meetings, shall state at the beginning the serial number of the meeting.

Further, as per point 17.2.2.1(o) of SS-2, the minutes of the general meetings shall contain the time of commencement and conclusion of the meeting.

However, on verification of the minutes sheet, it is observed that the company has not mentioned the time of conclusion of general meeting held on 07.11.2015.

(c) Violation of SS-1 : Secretarial Standard on Meetings of The Board of Directors (For the year ended 31.03.2017) :

As per point 7.2.1.1 of SS-1, minutes of the board meetings, shall state at the beginning the serial number of the meeting.

Further, as per point 7.2.2.1(o) of SS-1, the minutes of the board meetings shall contain the time of commencement and conclusion of the meeting.

However, on verification of the minutes sheet provided by the Company, it has been observed that the company has not mentioned time of conclusion of the board meeting for 12.04.2016 and 15.06.2016 in the minutes sheet.

As per point 9 of SS-1, the annual report and annual return of a company shall disclose the number and dates of meetings of the Board and Committees held during the financial year indicating the number of meetings attended by each director.

However, on verification of the Annual Report for the period ending 31.03.2017, it is observed that the company has not stated the number of meetings attended by each director in the annual report.

4. Section 118(10) of the Act reads as under:-
118. Minutes of proceedings of general meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot.— (10) Every company shall observe secretarial standards with respect to general and Board meetings specified by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980), and approved as such by the Central Government.
5. Section 118(11) of the Act reads as under:-
(11) If any default is made in complying with the provisions of this section in respect of any meeting, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.
6. Accordingly, a Show Cause Notice No. LC/CP/ACN/ROC/UPSTOCK/19/ 649 to 659 dated 22.05.'19, were issued to the Company and its officers in Default under Section 118(10) of the Companies Act, 2013, for non-complying with Secretarial Standard 1 & 2 for the financial year **2016 & 2017**.
7. A reply dated 13.06.'19, has been received from the Company which has not been found satisfactory. Further, reply dated 14.06.'19, have been received from Shri. Mahabir Prasad Sharma, and Shri. Tarit Kanti Das, apprising that they were the Independent Directors of the Company hence may not be held liable for the violation of the provisions of Section 118(10) of the Companies Act, 2013 and the show cause notice under reference deserves to be withdrawn. However, no reply has been received from the other Directors of the Company.
8. In view of the reply of Shri. Mahabir Prasad Sharma and Shri. Tarit Kanti Das, they are not held liable for the non-compliance of Section 118(10) of the Companies Act, 2013. However, the reply of the company is not found satisfactory. Further, it is pertinent to mention here that neither the show cause notice sent to other eight directors of the company have been received back undelivered nor they have replied to the show cause notice. Hence, it is evident that the company and its other eight directors have failed to comply with **Secretarial Standard 1 & 2, for the financial year 2016 & 2017**, thereby attracting the penal provisions mentioned under **Section 118(11) of the Companies Act, 2013 for violation of provisions of Section 118(10) of the Companies Act, 2013.**

9. The Company and its directors are officers in default as per section 2(60), of the Companies Act, 2013 and are thus liable for penal provisions.
10. Having Considered the facts and circumstances of the case and after taking into account the factors above, I hereby impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** each for the year 2016 and 2017, on the company and **Rs. 5,000/- (Rupees Five Thousand Only)** on each director except **Shri. Mahabir Prasad Sharma and Shri. Tarit Kanti Das**, for each year 2016 & 2017 total **Rs. 50,000/- on the company and Rs. 10,000/- each on the Noticee for the year 2016 and 2017** under Section 118(11) for failure to make compliance of the Act U/s 118(10). I am of this opinion that penalty is commensurate with the aforesaid failure committed by the Noticee.
11. The Noticee shall pay the amount of penalty through Ministry of Corporate Affairs portal only **within 90 days of receipt of this order.**
12. Appeal against this order may be filed in writing with the Regional Director (Northern Region), Ministry of Corporate Affairs, CGO Complex, Lodhi Road, New Delhi, within a period of sixty days from the date of receipt of this order, in Form ADJ setting forth the grounds of appeal and shall be accompanied by a certified copy of this order. [Section 454(5) & 454(6) of the Act, read with Companies (Adjudication of Penalties) Rules, 2014].
13. Your attention is also invited to Section 454(8) of the Companies Act, 2013, in the event of non-compliance of this order.

(Sudhir Kapoor)

Registrar of Companies & Adjudicating Officer
Uttar Pradesh, Kanpur - 208001

No.LC/CP/CAN/ROC/UPSTOCK/19/3199 to 3207

Dated 25/10. '19

To

1. M/s U.P. Stock and Capital Limited,
14/113 Civil Lines, Padam Towers,
Kanpur - 208001, U.P
2. Mr. Anil Tulsian,
Anand Cottage no. 5, 117/K/13, E-5, Moti Vihar,
Sarvodaya Nagar, Kanpur - 208025,
U.P.

3. Mr. Navin Parwani,
8, Anand Villa, 4/283, Parwati Bagla Road,
Kanpur Nagar – 208002, U.P

4. Mr. Sarwesh Dubey,
127/576-577, W-1 Saket Nagar,
Kanpur Nagar -208014, U.P

5. Mr. Atul Kanodia,
T4/1802, Emerald Garden,
7/102, Swaroop Nagar,
Kanpur – 208002, U.P

6. Mr. Arvind Kumar Mittal,
2A/220 Azad Nagar, Nawab Ganj,
Kanpur Nagar – 208002, U.P

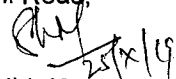
7. Mr. Ghanshyam Dwivedi,
128/131, E Block, Kidwai Nagar,
Kanpur – 208011, U.P

8. Mr. Arvind Kumar Jain,
27/81, Birhana Road,
Kanpur – 208001, U.P

9. Mr. Rohit Mehrotra,
63/7 A, The Mall,
Cantt. Kanpur – 208004,
Uttar Pradesh

Copy for information to:-

1. The Regional Director (Northern Region), Ministry of Corporate Affairs, CGO Complex, Lodhi Road,
New Delhi.


(Sudhir Kapoor)

Registrar of Companies & Adjudicating Officer
Uttar Pradesh, Kanpur - 208001

O/C
Ganeabh
25/10/19