

In the matter of Companies Act, 2013

And

In the matter of adjudication proceeding under Sub-section (1) of section 12 of the Companies Act, 2013.

And

In the matter of M/s. ADVANCE CONSTRUCTION COMPANY PRIVATE LIMITED. /6869.

28 FEB 2019

1. M/S. ADVANCE CONSTRUCTION COMPANY PRIVATE LIMITED
Gangotri Building, Flat No. 11, 1st Floor,
Plot No. 8, Haribhakti Society, Race Course Road,
Vadodara, Gujarat- 390 007.

2. DHIRAJLAL NATHALAL PATEL (WTD)
8/1201, Seawoods Estate, N.R.I. Complex,
Palm Beach Road, Near DPS School, Sector-5 4/56/58,
Navi Mumbai, 400615 -MH.

.....Respondents

Date of hearing- 21.02.2019

Present

- | | |
|--|---|
| 1. Shri L. R. Meena, Registrar of Companies | Adjudicating Officer |
| 2. Shri Sudhir Phaye, Dy. Registrar of Companies, | Presenting Officer |
| 3. Shri Naresh Chandra, Senior Technical Assistant | Present staff |
| 4. Shri Hemant Nandaniya, | Company Secretary (PCS) and
authorised representative of
the above respondents. |

ORDER

The above named company was incorporated on 31.03.1980 and as per record of this office presently the company is having its Registered office situated at Gangotri Building, Flat No. 11, 1st Floor, Plot No. 8, Haribhakti Society, Race Course Road, Vadodara, Gujarat- 390 007.

WHEREAS M/s. ADVANCE CONSTRUCTION COMPANY PRIVATE LIMITED LTD (herein after referred to as "company") is a company having its Registered office at Gangotri Building, Flat No. 11, 1st Floor, Plot No. 8, Haribhakti Society, Race Course Road, Vadodara, Gujarat- 390 007 registered under the provisions of the Companies Act, 1956 (hereinafter referred to as "Act") in the state of Gujarat.

And whereas As per Section 12(1) of the Companies Act, 2013, a company shall, within thirty days of its incorporation and at all times thereafter should have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.

And whereas, the Regional Director (NWR), Ministry of Corporate Affairs had issued Letter No. 25.10.2018 to the Company at its registered office address at Opp. Khanderao Market, Nr. Ami Appt. Baroda- 390 00, Gujarat in the matter of application under section 87 of the Companies Act, 2013 with regard to rectification in register of charges of the Company, but the said letter was returned undelivered by the Postal Authority with the remarks "LEFT". Therefore, the Regional Director (NWR) vide letter No. RD/ (NWR) /Sec. 87/2018/3655 dated 25.10.2018 directed the undersigned that the subject company has not maintaining its registered office at Opp. Khanderao Market Nr. Ami Appt. Baroda- 390 001 Gujarat in compliance of section 12(1) of the Companies Act, 2013 and initiate necessary action for violation of section 12(1) of the Companies Act, 2013.

- 1) In view of the above facts the undersigned has reasonable cause to believe that the provision of Section 12(1) of the Companies Act, 2013 has not been complied with by the Company and its officers in default. Thus, the Company and its officers in default have rendered themselves liable to be panel action as provided in sub-section (8) of section 12 of the Companies Act, 2013. As per provision of section 12 (8), there is provision for penalty for which the ROC is empowered to adjudicate the penalty under section 454 (3) of the Companies Act, 2013.
- 2) The office of the Registrar of Companies, Gujarat, Dadra and Nagar Haveli issued show cause notice for violation of section 12(1) of the Companies Act, 2013 to the Company and Respondents Directors on 15.11.2018. In response to the said notice, the company has submitted reply vide Letter dated 21.11.2018 without enclosing any supporting documents.
- 3) Thereafter, this office issued adjudication notice for violation of section 12(1) of the Companies Act, 2013 to the Company and Respondent Directors on 27.12.2018 by giving two opportunities of being heard in the matter of adjudication proceeding before the undersigned on 17.01.2019 and 15.02.2019. Further, due to some urgent official work, the matter was re-scheduled on 21.02.2019.
- 4) The undersigned in exercise of power conferred under sub section 3 of section 454 of the Companies Act, 2013 fixed the date of hearing on 21.02.2019 for adjudging of penalty for violation of provision of section 12 (1) of the Companies Act, 2013.
- 5) In response to the adjudication notice dated 05.02.2019 issued by the undersigned, the Company and its officer in default have authorized Shri Hemant Nandaniya, Practicing Company Secretary vide Board Resolution and MOA dated 12.01.2019 to appear and represent before the adjudicating authority- Registrar of Companies, Gujarat on the above given date and time for oral and written submission and to all acts and things as may be necessary and incidentally in the matter.
- 6) During the hearing on 21.02.2019, Shri Hemant Nandaniya, Practicing Company Secretary and Authorized representative of the Respondents reiterated submissions made in the


adjudication notices. He submitted that during the notice period, the company was in process of shifting its registered office and that's why none of employees of the company was present therein. However, the company has shifted its registered office to Gangotri Building, Flat No. 11, 1st Floor, Plot No. 8, Haribhakti Society, Race Course Road, Vadodara, Gujarat- 390 007 w.e.f. 12.11.2018 and filed e-form No. INC-22 vide SRN dated H28932671 with additional fee on 21.11.2018. He further submitted that violation on the part of the Respondents was absolutely unintentional and was committed inadvertently without any malafied intension.

- 7) That keeping in mind all the relevant facts and after consideration of the oral submissions made by Shri Hemant Nandaniya, Praëcticing Company Secretary and Authorized Representative of the Respondents, it is observed that the company and Respondent No. 1 had not capable to received the communication made by the Directorate during last weekend of October 2018. Therefore committed default under section 12 (1) of the Companies Act, 2013 for not maintaining of registered office. The submission dated 21.02.2019 made by Hemant Nandaniya on behalf of the Respondents appears to be satisfactory. However, as a matter of fact that the notice sent by Directorate was undelivered on a particular date, it is hereby ordered that sum of Rs. 5000/- each to company and its 1 officer has been imposed as penalty for period occurred during the process of shifting of registered office of the company and the matter stand disposed off.

The penalties imposed as under should be paid by the Respondents as per Law and submit the copies of Challan to this office. The company should file the INC 28 with attachment of this order and copy of aforesaid Challan.

Sr. No.	Name of the Respondents	Amount (In Rs.)
1.	M/s. ADVANCE CONSTRUCTION COMPANY PRIVATE LIMITED	5,000/-
2.	Shri DHIRAJLAL NATHALAL PATEL (WTD)	5,000/-
	Total Rs.	10,000/-

The adjudication notice stands disposed of with this order.


(L. R. Meena)
Adjudicating officer,
Registrar of Companies,
Gujarat, Dadra and Nagar Haveli.

Signed this 21th day of February, 2019.

Copy to:

1. M/S. ADVANCE CONSTRUCTION COMPANY PRIVATE LIMITED
Gangotri Building, Flat No. 11, 1st Floor,
Plot No. 8, Haribhakti Society, Race Course Road,
Vadodara, Gujarat- 390 007.,
2. DHIRAJLAL NATHALAL PATEL (WTD)
8/1201, Seawoods Estate, N.R.I. Complex,
Palm Beach Road, Near DPS School, Sector-5 4/56/58,
Navi Mumbai, 400615 -MH.
3. Shri Hemant Nandaniya (PCS)
301-B, Helix Complex, Opp. Hotel Surya,
Besides Hotel Kansar, Sayajiganj,
Vadodara- 390 005 for information.
4. ~~Ma~~ter File
5. Office Copy