

भारत सरकार
कारपोरेट कार्य मंत्रालय
कंपनी रजिस्ट्रार का कार्यालय
100, "एवरेस्ट", मरिन ड्राईव, मुंबई - 400002
दुरभाष / TELE : 2281 2627, 2281 2645, 2281 3760
फैक्स / FAX : 2281 1977



GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
OFFICE OF THE REGISTRAR OF COMPANIES
100, "EVEREST", MARINE DRIVE,
MUMBAI - 400 002
Website : www.mca.gov.in
e-Mail ID : roc.mumbai@mca.gov.in

No.ROC(M)/CMC/RS/ADJ-ORDER/222871/

~~4005~~ 4005
~~4004~~ 4011

Date : 4 FEB 2020

Order for Penalty under Section 454 for violation of
Section 12(1) r/w. Section 12(4) of the Companies Act, 2013.

IN THE MATTER OF ESAAR (INDIA) LIMITED (L67120MH1951PLC222871).

Appointment of Adjudicating Officer:-

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 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 adjudging penalties under the provisions of this Act.

1. Company:-

Whereas, the Company **ESAAR (INDIA) LIMITED** [herein after known as **Company**] is a registered company with this office under the provisions of Companies Act, 1956 having its registered address - 204 B-Wing, New Prabhat SRA CHS LTD, Chikuwadi, Plot-115, Next to Bisleri Factory, W. E Highway, Andheri East, Mumbai, Mumbai City, Maharashtra - 400099, India, as per the MCA portal.

2. Facts about the Case:-

Whereas, it has been observed that, the notice issued by IEPF Authority, Ministry of Corporate Affairs, was returned back undelivered by the Postal Authorities thereby violating the provisions of Section 12(3)(a) punishable under provisions of Section 12(8) of the Companies Act, 2013.

3. **Following was mentioned in the aforesaid SCN dated 18.12.2019:-**

Whereas, it has been observed that, the notice issued by IEPF Authority regarding the compliance of Section 124 and 125 of the Companies Act, 2013, was returned back undelivered by the Postal Authorities thereby violating the provisions of Section 12(3)(a) punishable under provisions of Section 12(8) of the Companies Act, 2013. The company and every officers have violated the said provisions. Therefore, the company and every officers are liable for penalty proceedings, for aforesaid violation. Accordingly, the show cause notice under Section 454 for violation of Section 12 of the Companies Act, 2013, was issued to the Company and its directors/officers as per address/s available on the MCA portal. The Company and its directors / officers failed to file any reply.

4. **Section 12 (1), 12(3) , 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 communications and notice as may be addressed to it.

Section 12(3) - Every company shall –

(a) paint or affix its name, and the address of its registered office, and keep the same painted or affixed, on the outside of every office or place in which its business is carried on, in a conspicuous position, in legible letters, and if the characters employed therefor are not those of the language or of one of the languages in general use in that locality, also in the characters of that language or of one of those languages;

(b) have its name engraved in legible characters on its seal;

(c) get its name, address of its registered office and the Corporate Identity Number along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and in all its notices and other official publications; and

(d) have its name printed on hundies, promissory notes, bills of exchange and such other documents as may be prescribed:

Provided that where a company has changed its name or names during the last two years, it shall paint or affix or print, as the case may be, along with its name, the former name or names so changed during the last two years as required under clauses (a) and (c):

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.

5. **Factors to be taken into account by the Adjudicating Officer:-**

While adjudging quantum of penalty under section 12(8) of the Act, the Adjudicating Officer shall have due regard to the following factors, namely:

- a. The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of default.
- b. The amount of loss caused to an investor or group of investors as a result of the default.
- c. The repetitive nature of default

With regard to the above factors to be considered while determining the quantum of penalty, it is noted that the disproportionate gain or unfair advantage made by the noticee or loss caused to the investor as a result of the delay on the part of the noticee to redress the investor grievance are not available on record. Further, it may also be added that it is difficult to quantify the unfair advantage made by the noticee or the loss caused to the investors in a default of this nature.

6. **ORDER:-**

Having considered the facts and circumstances of the case and after taking into account the factors above, I hereby impose a penalty of **Rs.1,00,000/- (Rupees One Lakh only)** on each of the addressees of this order, for default period from 17.09.2018 till date. I am of this opinion that, the penalty is commensurate with the aforesaid failure committed by the Noticee.

The Noticee shall pay the said amount of penalty by way of Demand Draft in favour of "Pay & Accounts Officer", Ministry of Corporate Affairs, Mumbai, payable at Mumbai, within 90 days of receipt of this order. The Demand Draft shall be forwarded to this Office Address.

Appeal against this order may be filed in writing with the Regional Director (WR), Ministry of Corporate Affairs, Everest, 5th Floor, Marine Drive, Mumbai-2, within a period of **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 the this order. [Section 454(5) & 454(6) of the Act read with Companies (Adjudicating of Penalties) Rules, 2014].

Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.

mdg
31/01/2020
(MANO RANJAN DAS) O/C
Registrar of Companies and Adjudicating Officer,
Maharashtra, Mumbai.

To,

ESAR (INDIA) LIMITED
204 B-Wing, New Prabhat SRA CHS LTD,
Chikuwadi, Plot-115, Next to Bisleri Factory,
W. E Highway, Andheri East, Mumbai,
Mumbai City, Maharashtra - 400099, India.

UPENDRA PRAVINBHAI PATEL
4, RAJVINI BUNGLOWS, B/H VIP SCHOOL
NICOL NARODA ROAD, NIKOL,
AHMEDABAD,382350,Gujarat,India

DIPTI YELVE SHASHANK
Flat No. 203, Kala Kutir Building No. 2
Dongarpada Road,Behind Magnus Motors,
Virar West Palghar, 401303, Maharashtra, India

MEHULKUMAR HARISHKUMAR KADIYA
A-24/288, Hariom, Apartment, near Shrinath Appt
Nava Vadaj Ahmedabad, 380013, Gujarat, India.

NARMADABEN RATILAL PATEL
74, Shivshakti Nagar, Nr. Abad Row house Chandlodia
Ahmedabad,382481, Gujarat,India

RAGHVENDRA KUMAR
601/ A Wing, Vashant Heights, Shanti Park
Mira Road East, Opposite Poonam Complex
Mira-Bhayandar, Thane,401107, Maharashtra, India

ANEESH SAGGAR
H.No-29/81, Christian Colony,
Raja Talaab, Raipur,492001, Chattisgarh, India

Copy to:-

The Regional Director (WR),	}	For information.
Ministry of Corporate Affairs,	}	
Mumbai.	}	