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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/Sedil Development/Penalty Order/

Dated , the 30th September, 2019.

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

SEDIL DEVELOPMENT INDIA LIMITED

CIN : U51109OR2009PLC011118

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, SEDIL DEVELOPMENT INDIA 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. 1165, Hanspal, Naharkanta, Bhubaneswar : 752 101, Dist: Khordha in the state of Odisha as per data available with MCA website.

Atty

Facts about the Case :-

3. AND WHEREAS, this office received a letter from Reserve Bank of India, Department of Non-Banking Supervision, Bhubaneswar enclosing a complaint received from Shri Niranjan Patra, against the company regarding collection of money. On the basis of the said complaint this office issued Notices under Section 206(1) bearing No. ROC/Compt/2019/2733(4) dated 14.02.2019 to the company and its directors seeking comments on the complaints, but the letter addressed to the company returned undelivered with the postal remark "Left" on 04.03.2019 and no communication received from the Directors, hence this office issued Notice under Section 206(3) of the Companies Act, 2013 on 13.03.2019 again the letter addressed to the company returned undelivered with postal remark "Left" also no communication received from the directors in this regards. As the letters addressed to the company returned undelivered, this office 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.454/11118/2019/438(4) dated 30.04.2019, but the letters addressed to the company and two Directors viz. Shri Pradip Kumar Nayak and Shri Dilip Kumar Padhi returned undelivered with the postal remark "Left" and "Refused" respectively.

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, since the letter dated 30.04.2019 addressed to the company was returned undelivered, 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. 454/11118/2019/870(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 4.30 PM before the Adjudicating Officer for hearing on the default of Section 12(1) of the Act. The said letters addressed to the company and one of the Directors viz. Shri Pradip Kumar Nayak were returned undelivered with Postal remark



“Left”. But, Shri Pradip Kumar Nayak, Managing Director appeared before the Adjudicating Officer and furnished a letter requesting for adjournment. Considering his request the matter again adjourned to 24th September, 2019 at 3.30 PM and again to 30th September, 2019 at 3.30 PM.

ORDER

On the fixed date, Shri Pradip Kumar Nayak, Managing Director, Shri Dilip Kumar Padhi, Director and Shri Pradosh Kumar Das, Advocate authorized representative on behalf of Shri Bibekananda Nayak, Director appeared before the Adjudicating Officer. On oral submission they stated that they have incorporated the company for trading of eatable consumer items, but failed to run the business and all the directors have been arrested in connection to cheque bouncing allegation and all the directors were under judicial custody near about 3 years. However, now they are maintaining the registered office of the company and taking necessary initiative to close the company after due compliance of the Companies Act, 2013. After going through the available records and considering the submission of both the directors and 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 non-maintenance of registered office of the company viz. SEDIL DEVELOPMENT INDIA LIMITED for 110 (One hundred ten) days i.e. with effect from 04.03.2019 (date of return of the Notice issued under Section 206(1) of the Act by postal authority) to 22.07.2019 (date of appearance of Shri Pradip Kumar Nayak before the Adjudicating Officer) in terms of Section 12(1) of the Act. Accordingly, I inclined to impose a maximum penalty as prescribed under Sub-Section (8) of Section 12 of the Companies Act, 2013 a sum of Rs. 1,00,000/- (Rupees One lakh) on SEDIL DEVELOPMENT INDIA LIMITED and Rs. 1,00,000/- (Rupees One lakh) each on every director of the company who is in default viz. (i) Shri Pradip Kumar Nayak, (ii) Shri Bibekananda Nayak and (iii) Shri Dilip Kumar Padhi for the defaulting period of 110 days i.e. from 04.03.2019 to 22.07.2019 (both days inclusive) @ Rs.1,000/- per day (subject to maximum) pursuant 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.


30/09/2019

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