

भारत सरकार
कार्पोरेट कार्य मंत्रालय
कार्यालय कंपनीज रजिस्ट्रार, दिल्ली एवं हरियाणा
चतुर्थ तल, आई.एफ.सी.आई. टॉवर, 61 नेहरू प्लेस,
नई दिल्ली - 110019



GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS,
OFFICE OF REGISTRAR OF COMPANIES,
NCT OF DELHI & HARYANA
4TH FLOOR, IFCI TOWER, 61, NEHRU PLACE,
NEW DELHI - 110019

ROC/D/2017/ Jaiparasnath Agro/penalty order/ 8871

Dated 24.02.2020

Order for Penalty under Section 454 (8) (i) & (ii) for violation of section 12(1) r/w Section 12(4) of the Companies Act, 2013

JAIPARASNATH AGRO FOODS PRIVATE LIMITED

U15139DL2010PTC200783

Appointment of Adjudicating 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 adjudging penalties under the provisions of this Act.

Company:-

1. Whereas Company **Jaiparasnath Agro Foods Private Limited** [herein after known as **Company**] is a registered company with this office under the provisions of Companies Act, 1956 having its registered address at Office No. 303 3rd Floor P. No. 1/42 Lalita Park, Laxmi Nagar Delhi - 110092, India, as per the MCA website.

Facts about the Case:-

1. Whereas this office had received a letter of RD(NR) dated 18.09.2019 vide no 5/330/T-1/D/H47938410/8481 stating that a letter no 5/330/T-1/2019/D/140/H47938410/1170 dated 23.04.2019 was sent to the registered office of the subject company which was returned back undelivered with Postal Authority remark "**No Such Company at this address**" which is a violation of Section 12 (1) and which attracted penal provisions of Section 12(8) of the Companies Act, 2013. Subsequently, this office issued Show Cause Notice U/s. 12(8) of the Act vide No. ROC/D/PV/2019/Jaiparasnath Agro Foods/5672-5674 dated 14.10.2019 to the company and its officers in default.

1. Following was mentioned in the aforesaid SCN dated 14.10.2019:-

That this office received a letter from the office of RD (NR) dated 18.09.2019 vide number 5/330/T-1/D/H47938410/8481 stating that an application on 07.06.2019 has been received in the office of RD(NR) under Section 140(1) of the Companies Act, 2013 for removal of Statutory Auditors of the company namely " Jaiparasnath Agro Foods Private Limited". On the said application, the Directorate issued letter dated 23.04.2019 asking the applicant company to furnish certain documents stating that failure to furnish the documents shall result in rejection of the application. However the aforesaid letter so dispatched was received back with the remarks "No such M/s at this address". Hence it is a violation of Section 12(1) of the Companies Act, 2013 and which attracted penal provisions of Section 12 (8) of the Companies Act, 2013.

(b) 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 communications and notice 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.

(a) That the reply of the company dated 08.11.2019 was received wherein following was contended:

- The company has properly maintained registered office, situated at "OFFICE NO 303 3RD FLOOR P. NO. 1/42 LALITA PARK, LAXMI NAGAR DELHI - 110092, IN.
- We receive all letters and notices sent by various vendors and other concerned person and authorities from time to time. (Receipt of courier and speed post is annexed as Annexures-A).
- The Letter issued from the Directorate is missed due to some maintenance activities carried on registered office at that time.
- We have also received the letters and notice issued by your office on the same address.
- As a proof, the photograph of registered office with geographical location and longitude and latitude as Annexed.

- (b) On the date of hearing "Shri Saurabh Sharma", Advocate/POA has presented for hearing on behalf of the Company and its directors. He submitted that the Company was very much maintaining its registered office during the month of April, 2019 due to some renovation work, the registered office was remained closed from 20.04.2019 to 26.04.2019 and perhaps due to such disclosure, the letter issued by the office of Regional Directors, NR was returned back.
- (c) In view of the facts narrated above, the company and its directors/officers, in default are liable for penalty of Rs. 1000/- per day as per section 12(8) of the Companies Act, 2013 for 6 days.

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

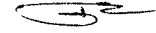
While adjudging quantum of penalty under section 12(8) of the Act, the Adjudicating Officer shall have due regard to the following factors, namely:

- 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.
10. 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.

ORDER

11. Having considered the facts and circumstances of the case and after taking into account the factors above, I hereby impose a penalty of **Rs.1000/- (Rupees One Thousand Only)** on each of the addressees of this order, as the default continues from **20.04.2019 [Date of undelivered letter]** to **26.04.2019 [Date of receipt of ROC's letter]** under Section 12(8) of the Act for failure to make compliance of the Act u/s. 12(1) r/w 12(4) of the Act. I am of this opinion that penalty is commensurate with the aforesaid failure committed by the Noticee.
12. The noticee shall pay the said amount of penalty by way of Demand Draft in favour of "Pay & Accounts Officer, Ministry of Corporate Affairs, New Delhi, payable at Delhi, within 90 days of receipt of this order. The Demand Draft shall be forwarded to this Office Address.

13. Appeal against this order may be filed in writing with The Regional Director (NR), Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003 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].
14. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.



(Kamal Harjani)

Registrar of Companies & Adjudicating Officer
NCT of Delhi & Haryana

To

1. Jaiparasnath Agro Foods Private Limited
Office No. 303 3rd Floor P. No. 1/42 Lalita Park, Laxmi Nagar, Delhi-110092 IN
2. Mr. Arnav Jain, Director,
D-394, SHASTRI NAGAR MEERUT 250004 UP IN
3. Mr. Prashant Jain, Director,
Sanjeev Kumar Jain D-418, Shastri Nagar, Ashok Park, Meerut-250002 UP IN

Copy to:-

The Regional Director (NR),
Ministry of Corporate Affairs,
B-2 Wing, 2nd Floor, Pt. Deendayal Upadhyaya Bhawan,
CGO Complex, Lodhi Road, New Delhi-110003, for information please.