

BEFORE THE ADJUDICATING OFFICER
REGISTRAR OF COMPANIES, GOA, DAMAN & DIU
(ADJUDICATION ORDER NO: ROCGDD/AO/92&137/2019/31)

ORDER

**UNDER SECTION 454 OF THE COMPANIES ACT, 2013 READ WITH
THE COMPANIES (ADJUDICATION OF PENALTIES) RULES, 2014.**

In respect of:
PAULO AUTO BODY BUILDERS AND SERVICING PRIVATE LIMITED

CIN: U34106GA2000PTC002817

Appointment of Adjudicating Officer:-

1. The Ministry of Corporate Affairs, Govt. of India, vide its gazette notification no SO 831(E) dated 24.03.2015 appointed the undersigned as Adjudicating Officer (hereinafter referred to as 'the A.O.')
- in exercise of the powers conferred by Section 454 of the Companies Act, 2013 [herein after known as the **Act**] read with the Companies (Adjudication of Penalties) Rules, 2014 [Notification no GSR 254(E) dated 31-3-2014] for adjudging penalties under the provisions of the Act. The undersigned vide the Companies (Amendment) Ordinance, 2019 is entrusted with the power to adjudicate penalties under Section 92 and 137 of the Act with effect from 02.11.2018.

Company:-

2. Paulo Auto Body Builders and Servicing Private Limited [herein after known as the **Company**] CIN:U34106GA2000PTC002817 is a registered company with the office of Registrar of Companies, Goa, Daman and Diu and having its registered address at Cardozo Building, Near Kadamba Bus Stand, Panaji, Goa-403001, India, as per records maintained by this office in online registry.

Show Cause Notice, Reply and Personal Hearing:-

3. A Show Cause Notice (SCN) under Section 92(5) and 137(3) of the Companies Act, 2013 were issued vide no ROCGDD/Penalty/2019/Non-filing/4893-4895, dated 14.02.2019 to the Company and its two Directors namely Mr.Mario Socorro Pereira (DIN:01916036) & Ms.Lorna Fatima Desouza Elias Pereira, (DIN:02674554). The Noticee's to SCN were called upon to show the case for

non-filing of Annual Return(s) and Financial Statement(s) pursuant to Section 92 and Section 137 of the Act respectively.

4. In response to the Show Cause Notice dated 14.02.2019 issued to the Company and its Directors, Mr. Mario Socorro Pereira, Director of the company vide his letter dated 25.02.2019 informed that they could not file the requisite statutory returns within the prescribed time limit that due to *“Wannacry Ransomware attack in May 2017 the entire backed up data was lost. Though they had a contractual agreement with Tata Communication Ltd, Hyderabad to store company’s accounting data they could not help the company to retrieve the company’s accounting data for any year including financial year 2016-2017. The company lodged an F.I.R/complaint with Hyderabad Police Station. Due to loss of data the company had to repost millions of accounting transaction entries and therefore, the Company’s accounts could not get audited in order to file the returns within the due date under the Act.”* Mr.Mario Socorro Pereira, Director of the company has appeared for personal hearing held in this office on 09.04.2019. During the personal hearing Mr.Mario Socorro Pereira, has explained the above stated facts and circumstances once again, further stated all the data was re-entered into the system/software from the physical records and therefore, it took long time.
5. It is observed from the master data that the company has filed its statutory returns for the financial year 31.03.2018 on 10.04.2019.

Provisions of the Companies Act, 2013:-

6. Sub-section (1) of Section 92 of the Act provides that every company shall prepare an Annual return in the prescribed form and sub-section(4) of Section 92 of the Act provides that every company shall file with the Registrar a copy of the annual return, within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees, as applicable.

7. Every company shall prepare its annual return in the prescribed form containing the particulars as they stood on the close of the financial year regarding—
- (a) its registered office, principal business activities, particulars of its holding, subsidiary and associate companies;
 - (b) its shares, debentures and other securities and shareholding pattern;
 - (c) its indebtedness;
 - (d) its members and debenture-holders along with changes therein since the close of the previous financial year;
 - (e) its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial year;
 - (f) meetings of members or a class thereof, Board and its various committees along with attendance details;
 - (g) remuneration of directors and key managerial personnel;
 - (h) penalty or punishment imposed on the company, its directors or officers and details of compounding of offences and appeals made against such penalty or punishment;
 - (i) matters relating to certification of compliances, disclosures as may be prescribed;
 - (j) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them; and
 - (k) such other matters as may be prescribed, and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice.
8. Sub-section (5) of Section 92 of the Act provides that if any company fails to file its annual return under sub-section (4) of Section 92 of the Act, before the expiry of the period specified therein, such company and its every officer who is in default shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with further penalty of one hundred rupees for each day during which such failure continues, subject to a maximum of five lakh rupees.
9. Sub-section (1) of Section 129 of the Act provides that company shall prepare a financial statement comply with the accounting standards notified under Section 133 of the Act and sub-section (2) of Section 129 of the Act provides that at every annual general meeting of a company, the Board of Directors of

the company shall lay before such meeting financial statements for the financial year. Further sub-section (1) of the Section 137 of the Act provides that a copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees, as applicable.

10. Sub-section(3) of Section 137 of the Act provides that if a company fails to file the copy of the financial statements under sub-section (1) or sub-section (2) of the Section 137, as the case may be, before the expiry of the period specified therein, the company shall be liable to a penalty of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this Section, and, in the absence of any such director, all the directors of the company, shall be liable to a penalty of one lakh rupees and in case of continuing failure, with further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.

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11. It is seen that returns for financial year ending 31.03.2018 has been filed by the company belatedly on 10.04.2019, thereby default is corrected on 10.04.2019. However, company and officers in default are liable for penalty for the period of default for violation of 92(5) and 137(3) of the Act for FY 2017-18.

The object of filing the annual return of company with the Public Domain is in the public interest, to enable the investors, public and whosoever interested in the company can access the fundamental information about the company and its management. Non-filing of this statutory return will result in denial of information to public about the company.

The object of filing financial statements of a company with MCA portal is to enable the interested public/investors/statutory agencies to access and know about the company state of affairs. The financial statements of a company so filed shall give a true and fair view of the state of affairs of the company, the

said statements will become documents of public domain and the interested public can access the said statements through MCA website to know the financial state of affairs of the company as on that date.

12. This Order could not be passed within the stipulated time period as most of the Officials of this office were engaged in Lok Sabha Election duty.
13. Having considered the facts and circumstances of the case, and after taking into account the factors above, the A.O. hereby impose penalty on Company as per table below for violation of Section 92 and Section 137 of the Companies Act, 2013 for Financial Year ending 31.03.2018. The A.O. is of the opinion that penalty is commensurate with the aforesaid failure committed by the Noticees.

Document Required to be filed	No of Days of Default *	Penalty imposed on Company /Director	First Default (in Rs)	Default Continues (in Rs)	Total (in Rs)
Financial Statement u/s 137(1) of the Companies Act, 2013	159 days	On Company	Rs.1000X159 days=	Rs.1,59,000/-	Rs.1,59,000/-
		Mario Socorro Pereira,	Rs.1,00,000/-	Rs.100X159 days=Rs.15,900/-	Rs.1,15,900/-
		Lorna Pereira,	Rs.1,00,000/-	Rs.100X159 days=Rs.15,900/-	Rs.1,15,900/-
Annual Returns u/s 92(4) of the Companies Act, 2013	130 days	On Company	Rs.50,000/-	Rs.100X130 days=Rs.13,000/-	Rs.63,000/-
		Mario Socorro Pereira,	Rs.50,000/-	Rs.100X130 days=Rs.13,000/-	Rs.63,000/-
		Lorna Pereira,	Rs.50,000/-	Rs.100X130 days=Rs.13,000/-	Rs.63,000/-

*No. of days have been calculated from November, 2018 & December 2018 for Financial Statement and Annual Return respectively till 09.04.2019.

14. The Penalty imposed shall be paid through the Ministry of Corporate Affairs portal only.
15. Appeal against this order may be filed in writing with the Regional Director(WR), Ministry of Corporate Affairs, 100, Marine Drive, Everest Building, Mumbai-400002, 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 of the Companies Act, 2013 read with the Companies (Adjudicating of Penalties) Rules, 2014].
16. Your attention is also invited to Section 454(8) of the Act regarding consequences of non-payment of penalty.
17. In terms of the provisions of sub-rule (9) of Rule 3 of Companies (Adjudication of Penalties) Rules, 2014, copy of this order is being sent to Paulo Auto Body Builders And Servicing Private Limited, CIN:

U34106GA2000PTC002817 is a registered company with the office of Registrar of Companies, Goa, Daman and Diu and having its registered address at Cardozo Building, Near Kadamba Bus Stand, Panaji, Goa-403001, India, and Mr.Mario Socorro Pereira, (DIN:01916036) at Flat no.3, 1st floor, gelndale Apts., Mapusa, Bardez, North Goa, Mapusa 403507, Ms.Lorna Fatima Desouza Elias Pereira, (DIN:02674554) at Flat No.D263, Belle View, Altino, Mapusa, Bardez, Goa -403507 and also to Office of Regional Director(WR), Ministry of Corporate Affairs, 100, Marine Drive, Everest Building, Mumbai-400002.

Place:- Panaji, Goa.

Date:- 10.05.2019

Registrar of Companies Goa, Daman & Diu

Adjudicating Officer

