

शिघ्र डाक सेवा
SPEED POST

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

CP No. 13/2019

RD(WR)/Sec. 454(5)/Sycamore/H81257586/2020

6959
A-6960

In the matter of Companies Act, 2013: Section 454(5)

18 MAR 2020

AND

In the matter of SYCAMORE GROWMORE PRIVATE LIMITED

having Registered Office at Bhanav Apartments, Office 1 & 2, Dr. Shirgaonkar Road,
Panaji, Goa – 403 001, India.

.....Applicant

Parties Present:

For Petitioner: Ms. Gayathri R Girish, Practicing Company Secretary

Date of Hearing: 31.01.2020

ORDER

Heard.

1. This appeal is filed under sub-Section (5) of Section 454 of the Companies Act, 2013 (hereinafter referred to as the "Act") read with Companies (Adjudication of Penalties) Rules, 2014 (hereinafter referred to as the "Rules") by SYCAMORE GROWMORE PRIVATE LIMITED (hereinafter referred to as the "Company" or "Appellant") having CIN U01111GA1994PTC001725, incorporated under the Companies Act, 1956, having its registered office at Bhanav Apartments, Office 1&2, Dr. Shirgaonkar Road, Panjim, Goa 403001 IN., against the order passed by Registrar of Companies-cum-Official Liquidator (ROC), Goa, adjudicating a penalty for violation of Section 92(5) and Section 137(3) of the Act vide Order No. ROCGDD/AO/92&137/2019/96 dated 10/06/2019.
2. The order was passed by the ROC on 10/06/2019 and the appeal is filed with this appellate forum having jurisdiction in the matter being the Regional Director having jurisdiction in the State of Maharashtra and Goa. Thus, this appellate forum is having jurisdiction.

3. The appeal on Form ADJ (SRN H81257586) is filed on 07/08/2019. As per provisions of Section 454(6), an appeal under sub-Section (5) of Section 454 is to be filed within a period of 60 days from the date of which the copy of the order made by the adjudicating officers is received by the aggrieved person. In this case, the appellant company has admitted that the order was received on 10.06.2019 and the appeal is filed on 07.08.2019. The appeal was filed on 07.08.2019 and thus is within the stipulated period of 60 days in terms of provisions of Section 454(5) of the Act.

4. The brief facts of the case are as under:

- The appeal is filed by the Appellant Company and its officers in default namely Mr. Sharad Dashrath Zarekar (DIN 07214589) and Mr. Dnyandeo Namdeo Thokal (DIN 07607918).
- The appellant company was defaulting in filing of its Annual Returns and Balance Sheets for the Financial Year 2017-18.
- The ROC has issued show cause notice under Section 92(5) and Section 137(3) of the Act vide notice dated 25/01/2019 to the company and its directors namely Mr. Sharad Dashrath Zarekar (DIN 07214589) and Mr. Dnyandeo Namdeo Thokal (DIN 07607918) calling them to show cause for non-filing of such documents.
- No reply has been received from the company.
- As per the Master Data, the company has finally filed the due Annual Returns and Balance Sheets for the Financial Year 2017-18 on 11.02.2019.
- The ROC has imposed a total penalty of Rs.4,92,800/- (Rupees Four Lakh Ninety Two Thousand Eight Hundred Only) on the company and its two Directors as detailed herein below:

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(i) of the Companies Act, 2013	101 days	On Company	Rs 1000X101 days=	Rs. 1,01,000/-	Rs. 1,01,000/-
		Sharad Dashrath Zarekar	Rs. 1,00,000/-	Rs. 100X101 days=Rs. 10,100/-	Rs. 1,10,100/-
		Dnyandeo Namdeo Thokal	Rs. 1,00,000/-	Rs. 100X101 days=Rs. 10,100/-	Rs. 1,10,100/-
Annual Returns u/s 92(4) of the Companies Act, 2013	72 days	On Company	Rs. 50,000/-	Rs. 100X72 days= Rs. 7,200/-	Rs. 57,200/-
		Sharad Dashrath Zarekar	Rs. 50,000/-	Rs. 100X72 days= Rs. 7,200/-	Rs. 57,200/-
		Dnyandeo Namdeo Thokal	Rs. 50,000/-	Rs. 100X72 days= Rs. 7,200/-	Rs. 57,200/-

*No. of days have been calculated from November, 2018 & December 2018 for

Financial Statement and Annual Return respectively till 10.02.2019.

- The Appellant Company has not yet deposited the said penalty.

7. Therefore, the order is without application of mind on the relevant statutory provisions of the Act and without performing the duties cast on the ROC/Adjudicating Officer. The ROC/ Adjudicating Officer present in the course of hearing could not give any plausible reason for the said defects.

THE REGIONAL DIRECTOR (WR) DOTH HEREBY ORDERS

1. I have carefully considered the impugned order, all the submissions made by the appellant in the appeal and oral submissions made by the Learned Representative of the company and the ROC/Adjudicating Officer during the hearing held on 31.01.2020. I am of the considered opinion that in view of observation made hereinabove, the impugned order is liable to be set aside being defective on many counts and without conducting any inquiry and without imparting an opportunity of being heard to the appellants. The order is accordingly set aside with directions to the ROC/Adjudicating Officer to conduct the proceeding de-novo and pass an order in accordance and after due compliance of provisions of Section 454 read with Rules thereunder and also read with provisions of Section 137, 92 read with Section 2(60) of the Act and the filings made by the appellant company after giving them a due opportunity of being heard as per Rules within 30 days from the date of this order.
2. A copy of this order shall be published on the website of the Ministry of Corporate Affairs as per Rules.
3. No order to cost.

Signed and sealed on 16th day of March 2020 at Mumbai.



(Signature)
(Manmohan Junbja)
Regional Director (WR)

Copy to:

- 1) SYCAMORE GROWMORE PRIVATE LIMITED
Bhanav Apartments, Office 1 & 2,
Dr. Shirgaonkar Road, Panjim
Goa - 403 001.
- 2) The Registrar of Companies, Goa.
- 3) Office Copy