

BEFORE THE ADJUDICATING OFFICER  
REGISTRAR OF COMPANIES, GUJARAT, DADRA & NAGAR HAVELI

No. ROC-GJ/2020-21/ Essar Steel Metal/ ADJ. ORDER/Sec.12/

Dated:

20 JAN 2021 S204T

ORDER FOR PENALTY UNDER SECTION 454 OF THE COMPANIES ACT, 2013 READ WITH COMPANIES (ADJUDICATION OF PENALTIES) RULES, 2014 and COMPANIES (ADJUDICATION OF PENALTIES) AMENDMENT RULES, 2019 FOR VIOLATION OF SECTION 12(1) R/W Section 12(4) OF THE COMPANIES ACT, 2013 S206

In the matter of M/s. ESSAR STEEL METAL TRADING LIMITED  
(U27100GJ2005PLC046272)

20 JAN 2021

**Date of hearing- 19.01.2021**

**Appointment of Adjudication Authority:-**

1. The Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad.II dated 24.03.2015 has appointed the undersigned as Adjudicating Officer in exercise of the powers conferred under section 454 of the Companies Act, 2013 (hereinafter known as Act) read with Companies (Adjudication of Penalties) Rules, 2014 (Notification No. GSR 254(E) dated 31.03.2014) for adjudging penalties under the provisions of Act.

**Company:**

2. Whereas Essar Steel Metal Trading Limited (U27100GJ2005PLC046272) (herein after referred to as "company") is a registered company with this office under the provisions of the Companies Act, 1956/2013 having its registered office at 601, 6th floor, Indra Complex, Near Namrata Society, Manjalpur, Vadodara, Gujarat-390004 as per the record maintained under the MCA Website.

**Fact about of the case:**

3. WHEREAS, Learned Regional Director, NWR, Ministry of Corporate Affairs, Ahmedabad vide letter dated 04.11.2020 has informed that Directorate has sent a letter No. RD(NWR)/230-232/ (390)/2020-21/783/ dated 24.08.2020 at the registered office of Essar Steel Metal trading Limited seeking certain

information/documents in the matter. However, the postal Authorities have returned the said letter with remarks "Left". Directorate has further mentioned therein that it appears that the company is not maintaining its registered office in compliance of the Section 12 of the Companies Act, 2013, which is a violation of Section 12 (1) / 12(4) of the Act and which attracted penal provisions of Section 12(8) of the Companies Act, 2013..

**4. Sections 12(1), 12(4) and 12(8) of the Act are reproduced as under:-**

Section 12(1)- A company shall, within thirty days of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices 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 register within thirty 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.

**Show Cause Notice, reply and personal Hearing:-**

5. An Adjudication Notice vide No. ROC-GJ/ Sec.454 (3)/ Essar Steel/ STA/2020-21/ 3823 to 3825 dated 25.11.2020 was issued to the company and its officers in default for violation of Section 12(1) r.w. Section 12(4) of the Act. But, letter issued to the company has return back undelivered with postal remarks "Left".
6. Thereafter, a "Notice of Inquiry" vide No. ROC-GJ/2/ Adj/ STA(V)/ ESSAR STEEL / SEC. 454/5004 to 5005 dated 06.01.2021 was issued to the company and its officers in default as per Rule 3(3) of Companies (Adjudication of Penalties) Rules 2014 and a hearing was fixed for 19.01.2021.

7. On the Scheduled date of hearing i.e. on 19.01.2021, Mr. Sanjay Shah, Authorised representative of the subject company has appeared and attended the hearing proceedings and submitted written submission along with copy of reply dated 22.12.2020. In the reply that company has claimed that *"it has its registered office at 601, 6th floor, Indra Complex, Near Namrata Society, Manjalpur, Vadodara, Gujarat-390004 and the company was complying with the provisions of Section 12(1) of the Companies Act, 2013, as the registered office of the company is capable of receiving and acknowledging all communications and notices as may be addressed to it"*. The company has further stated in its reply that *"the company has appointed an officer at the registered office address of the company. However, on account of the break out of the novel coronavirus, and the pandemic followed thereafter, the management had taken a call of work from home basis for the employees of the company and thus their office was working as such, but was not open. The company has appointed a new person at the registered office of the company as on date of this letter."*

8. Under the above circumstances, the undersigned has reasonable cause to believe that the company and its officers have failed to maintained its registered office as per the requirement of Section 12(1) of the Companies Act, 2013 from the date of issue of letter of Learned Regional Director, NWR, Ministry of Corporate Affairs, Ahmedabad to till date i.e. from 04.11.2020 to 19.01.2021. In view the facts narrated above, the company and its directors /officers, in default are liable for penalty as per Section 12(8) of the Act.

**ORDER:**

9. 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, whenever 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 notice to redress the investor grievance are not available on the 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.

11. Having considered the facts and circumstances of the case and submissions made by the Noticees through written submission and oral submission by Authorised representative during personal hearing and after taking into accounts the factors above, the undersigned has reasonable cause to believe that the company and its officers have failed to maintain its registered office during the period from 04.11.2020 to 19.01.2021. I hereby imposed a penalty on company and its directors/Ex. Directors as per table below for violation of section 12(1) of the Companies Act, 2013. I am of the opinion that penalty is commensurate with the aforesaid failure committed by the Noticees:

No. of days of default	Penalty imposed on company/Director	Amount of Penalty (In Rs.)	Maximum (Rs. 1Lakh)	Total (In Rs.)
77*	On company	77X1000/-=77,000	1,00,000	77,000
	MR. KAUSTUBH ARUN SONALKAR Wholetime Director/ CFO(KMP) (DIN 06956678)	77X1000/-=77,000	1,00,000	77,000

\* No. of days have been calculated from letter of Regional Director, NWR, Ministry of Corporate Affairs, Ahmedabad up to till [date of hearing i.e 19.01.2021]

12. The Noticee shall pay the said amount of penalty in the Misc. Head available on Ministry Website [www.mca.gov.in](http://www.mca.gov.in) and proof of payment be

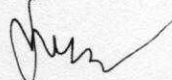
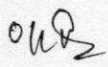
produced for verification in this office within 90days from the date of receipt of this order.

13. Appeal if any against this order may be filed in writing with the Regional Director, North Western Region, Ministry of Corporate Affairs, ROC BHAVAN, OPP. RUPAL PARK, NR. ANKUR BUS STAND, NARANAPURA, AHMEDABAD (GUJARAT)-380013 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 the certified copy of this order. [Section 454 of the Companies Act, 2013 read with the Companies (Adjudicating of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019].

14. Please note that as per the provisions of **Section 454(8) (i)** of the Companies Act, 2013, where company does not pay the penalty imposed by the Adjudicating Officer or the Regional Director within a period of **Ninety days (90 days)** from the date of the receipt of the copy of order, the company shall be punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakhs rupees. Further as per of **Section 454(8) (ii)** of the Companies Act, 2013, where an officer of a company who in default does not pay the penalty within a period of **Ninety days (90days)** from the date of receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

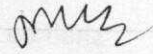
15. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order which provides that in case of default in payment of penalty, prosecution will be filed u/s 454(8)(ii) of the Companies Act, 2013 at your own costs without any further notice.

The adjudication notice stands disposed of with this order.

  
**M. K. SAHU (ICLS)**  
Registrar of Companies & Adjudicating Officer  
Gujarat, Dadra & Nagar Haveli. 

To

1. M/S. ESSAR STEEL METAL TRADING LIMITED  
601, 6TH FLOOR, INDRA COMPLEX,  
NEAR NAMRATA SOCIETY, MANJALPUR,  
VADODARA, GUJARAT-390004
2. MR. KAUSTUBH ARUN SONALKAR (DIN 06956678)  
{WHOLETIME DIRECTOR & CFO(KMP)}  
S/O SHRI ARUN DATTATRAYA SONALKAR  
BLDG 22, FLAT 701/702, SIDDHACHAL COMPLEX,  
OFF VASANT VIHAR POKHRAN, ROAD 2,  
THANE.,MUMBAI-400610, MAHARASHTRA



**M. K. SAHU (ICLS)**

Registrar of Companies & Adjudicating Officer  
Gujarat, Dadra & Nagar Haveli.

[Copy to:

Ministry of Corporate Affairs, (Through Proper Channel)  
The Regional Director, (NWR), Ministry of Corporate Affairs, Ahmedabad-  
380013 (for information please)

