



ई-मेल/e-mail : [roc.bangalore@mca.gov.in](mailto:roc.bangalore@mca.gov.in)

दूरभाष/Ph : 080-25537449

भारत सरकार/GOVERNMENT OF INDIA  
कारपोरेट कार्य मंत्रालय/MINISTRY OF CORPORATE AFFAIRS  
कम्पनी पंजीयक का कार्यालय, कर्नाटका  
OFFICE OF THE REGISTRAR OF COMPANIES, KARNATAKA  
“केंद्रीय सदन”, II मंजिल, ‘ई’ विंग, कोरमंगला, बंगलूर - 560 034  
“KENDRIYA SADAN”, II FLOOR, E- WING, KORAMANGALA, BANGALORE – 560 034

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मि.सं/No.ROC(B)/Adjudication/ Section-165/GAUTAM /2020

दिनांक/Dated: 17.12.2020

**ORDER OF ADJUDICATION OF PENALTY UNDER SECTION 454 OF THE COMPANIES ACT, 2013  
READ WITH RULE 3 OF THE COMPANIES (ADJUDICATION OF PENALTIES) RULES, 2014 FOR  
VIOLATION OF SECTION 165 OF THE COMPANIES ACT, 2013 BY M/S SHRI. GAUTAM  
CHAKRABORTY (DIN: 00059031)**

1. Whereas as per Section 165 (1) of the Companies Act, 2013 “No person, after the commencement of this Act, shall hold office as a director, including any alternate directorship, in more than twenty companies at the same time: Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed ten.”
2. Whereas as per Section 165 (3) of the Companies Act, 2013 “Any person holding office as director in companies more than the limits as specified in sub-section (1), immediately before the commencement of this Act shall, within a period of one year from such commencement—
  - a) choose not more than the specified limit of those companies, as companies in which he wishes to continue to hold the office of director;
  - b) resign his office as director in the other remaining companies; and
  - c) intimate the choice made by him under clause (a), to each of the companies in which he was holding the office of director before such commencement and to the Registrar having jurisdiction in respect of each such company.”
3. As per Sec 165(6) of the Companies Act, 2013, if a person accepts an appointment as a director in contravention of sub-section (1), he shall be liable to a penalty of five thousand rupees for each day after the first during which such contravention continues.
4. Whereas ROC has issued notice of default dated 03/03/2017 bearing number ROCB/SVK/SCN/37/DIN/2017 stating contravention of section 165 of the Companies Act 2013, as the director was having directorship in more than 20 companies as on 01/04/2015 and asked to adjudicate the offence committed. In spite of sending notice to the director, no action was taken by the said director and this office filed complaint under section 200 of Cr. PC, 1973 in CC No 323/2017 before the Hon’ble special Court for Economic Offences at Bangalore seeking punishment of the director as per the provisions of companies Act 2013.

5. Whereas after filing the complaint the director vide his application dated 10/09/2019 has requested this office to adjudicate the offence committed under section 165 of the companies Act 2013. Thereafter counsel for the director has submitted a detailed memo dated 29/10/2020 stating how the accused has made the offence good by 03/10/2015 and also admitted the violation committed under section 165 of the companies Act 2013. Hence default period from 01/04/2015 to 03/10/2015 is 186 days and requested for early adjudication as the matter is pending before special court in CC 323/2017.
6. The Counsel's request for considering penalty of Rs.2000 per day with a maximum of Rs.2,00,000/- as per the recently amended provisions, cannot be acceded to as the offence has been committed well before the Companies (Amendment) Act 2020 and cannot be given retrospective effect while imposing penalty.
7. Therefore, due to Covid-19 pandemic, Shri. GAUTAM CHAKRABORTY having DIN: 00059031 was called upon to appear personally or through authorized representative before the undersigned on 05/11/2020 through video conference for hearing u/s 454 r/w Rule 3(5) of the Companies (Adjudication of penalties) Rules, 2014.
8. Accordingly, Shri Uday Shankar, counsel attended on behalf of Shri GAUTAM CHAKRABORTY. He has explained that the circumstances under which his client exceeded the directorship beyond 20 companies after 01/04/2015 and further stated that the director is holding directorship only in 20 Companies after 03/10/2015.
9. Therefore, in view of the above said violation of Sec 165 of the Companies Act 2013, the officer is liable for a penalty of Rs.9,30,000/- i.e.(Rs.5000/- per day x 186 days) and accordingly, the undersigned in exercise of the powers vested to him vide Sec 454(1) & (3) of Companies Act, 2013 considering the delay of **186 days**, hereby impose penalty of Rs.9,30,000/- on the officer and hereby direct that he shall pay the penalty in the MCA 21 portal within 60 days and proof of payment be produced for verification within 30 days from the date of receipt of order .
10. Any person aggrieved by an order made by the adjudicating officer under sub-section (3) of Section 454 of the Companies Act, 2013 may prefer an appeal to the Regional Director having jurisdiction in the matter, within 60 days from the date of receipt of the order.
11. Please note that, as per Section 454 (8) (ii) Where an officer of a company or any other person who is in default fails to comply with the order made under sub- section (3) or sub-section (7) as the case may be within 90 days 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.

(C.V. SAJEEVAN )  
REGISTRAR OF COMPANIES  
KARNATAKA, BENGALURU

To ✓

SHRI. GAUTAM CHAKRABORTY  
NO.6, VIDYASAGAR ROAD  
P.O.NABAGRAM, HOOGHLY  
PIN 712246