

MONTHLY UPDATES ON ADJUDICATION ORDERS

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ADJUDICATION ORDERS OF THE ROC DURING THE MONTH OF AUGUST 2023

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- 1) Gwalior, ROC has imposed the highest number of orders during the Month of August – i.e., 6 orders, followed by Delhi and Patna ROC with 4 orders each.
- 2) The **highest number of orders** have been imposed for violation of **Section 12** of the Companies Act, 2013 i.e., non-maintenance of Registered Office as per the Provisions of the Act.
- 3) Payment of additional fees for delayed filing does not absolve the Company from the penal proceedings by the Regulators.
- 4) Two Companies was penalized for failing to consequently number the pages of the minutes of the meetings.
- 5) Two instances were noticed that an enquiry under Section 206 was conducted by ROC, Gwalior wherein the Companies failed to file its Annual returns and Financials statements. In one of the instances the company responded that the directors resigned, and the shareholders were arrested so AGM was not conducted due to non-availability of quorum. The authorities granted them additional time and penalty has been waived off.
- 6) ROC, Patna has penalized the Auditor for non-compliance under Section 143 read with Rule (11) (d) of Companies (Audit & Auditors) Rules, 2014.
- 7) Non compliances adjudicated have been under the following heads:

- Non-filing of balance sheet and annual return with the registrar. The maximum penalty levied amounts to Rs.2,00,000/- on the company and Rs.1,00,000/- on Directors.
- Non-compliance under Section 12:
  - ✓ Non maintenance of registered office
  - ✓ For not mentioning the email id and phone number in the resolutions and notice of the meeting
  - ✓ For not mentioning CIN number on boards report. Maximum penalty imposed was Rs.1,00,000/- by ROC Gwalior. Minimum penalty imposed was Rs.2000/- by ROC Delhi.
  - ✓ A company has been penalized stating that address mentioned in their books is the factory address and the rental agreement is unregistered
- Based on the inspection u/s 136, ROC Delhi had initiated proceedings for non-compliance that the company failed to send copy of financial statements and auditor's report along with the notice of AGM to members of the company.
- Based on the inspection u/s 118, ROC Mumbai had initiated proceedings for non-compliance that the company has not been consecutively numbered the Pages of the minutes book.
- ROC Patna had initiated proceedings for non-compliance under Section 143 read with Rule (11) (d) of Companies (Audit & Auditors) Rules,2014, that the Auditor have failed to disclose the transactions made on "specific bank notes" in the auditor's report.

## ADJUDICATION ORDERS OF THE RD DURING THE MONTH OF AUGUST 2023

- The South–East Regional Director has passed the highest number of orders during the Month of August – i.e., 11 orders.
- Seven orders have been passed for violation of Section 203 of the Companies Act, 2013 i.e., for the non-appointment of Company Secretary
- One order have been passed for violation of Section 168 of the Companies Act, 2013 i.e., for delay in filing DIR-12
- Three orders have been passed under Section 10A of the Companies Act, 2013 i.e., for delay in filing of form INC 20A
- Out of 11 orders, 1 appeal has been set aside and 11 of them have been modified.

## ADJUDICATION ORDERS OF THE ROC

<b>Non filing of Annual return as prescribed u/s 92</b>				
SL. NO	ROC JURISDICTION AND NUMBER OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	<b>GWALIOR – 2</b>	On Company - Rs.2,00,000 On directors- Rs.1,00,000/-	Orders passed against the Company which defaulted in filing of Annual return for various years	<p>On first instance, Though the company did not file return for FY 2005-2006 to 2013-2014 ,FY 2016-2017 to 2019-2020, the company was penalized only for 2018-2019 &amp; 2019-2020. Since it is a small company penalty has been levied u/s 446B.</p> <p>On second instance the company did not file the Annual return for the years 2019-20 and 2020-21. Notice was issued to the company calling for enquiry. However, the company responded that the directors resigned, and the shareholders were arrested during this period and AGM was not conducted due to non-availability of quorum. So, the authorities granted them additional time. The company had filed their Annual return for the mentioned years and the adjudication proceedings were dropped since the company has filed their returns</p>

<b>2</b>	<b>PATNA-1</b>	<p>For Financial year 2020-2021 On company-Rs.35,250/-</p> <p>On 3 directors - Rs.25,000/- each For Financial year 2021-2022</p> <p>On company – Rs.17,000/- On 3 directors - Rs.17,000/- each</p>	Non filing of Annual return for the year 2020-21 and 2021-22	Since the company is a small company, they have been penalized under section 446B.
<b>Non filing of Financials as prescribed u/s 137</b>				
<b>SL. NO</b>	<b>ROC JURISDICTION AND NO. OF ORDERS PASSED</b>	<b>ORDER PASSED AGAINST AND AMOUNT OF PENALTY</b>	<b>NATURE OF NON-COMPLIANCE</b>	<b>OTHER RELEVANT POINTS, IF ANY</b>
<b>1</b>	<b>GWALIOR - 2</b>	<p>On Company - Rs.2,00,000 On directors- Rs.1,00,000/-</p>	Non-filing of financial statements by defaulting companies for respective years.	<p>In the first instance, though the company did not file return for FY 2005-2006 to 2013-2014 FY 2016-2017 to 2019-2020, the company was penalized only for 2018-2019 &amp; 2019-2020. Since “Rahul transport company private limited company” penalty has been levied u/s 446B.</p> <p>In the Second instance, the company responded that the directors resigned, and the shareholders were arrested so AGM was not conducted due to</p>

				non-availability of quorum. The authorities granted them additional time and penalty has been waived off.
2	PATNA-1	On company – Rs.18,500/- On 3 directors - Rs.18,500/- each		Since Somen venture is a small company, they have been penalized under section 446B
<b>Non-maintenance of Registered office as prescribed u/s 12</b>				
SL. NO	ROC JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	PATNA-1	On Company - Rs.50,000/- On 3 directors- Rs.50,000/- each	Orders passed against the Company for Non maintenance of registered office	The registered office is a lease property so, NOC from the lessor to use the premises as the registered office, has not been attached in form INC-22.  Lease agreement does not have a clause pertaining to usage of property as "registered office" Hence it is considered as Company has not maintained its registered office
2	DELHI-2	On Company – maximum Rs.1,02,500/- Minimum-Rs.2,000/- On 2 directors- Maximum Rs.1,02,500/- each  Minimum Rs.2,000/-	Orders passed against the Company as prescribed under section 12 of the Companies Act, 2013 for  a) Non maintenance of registered office	On first instance, Company has been adjudicated for 3 non-compliances.  The address mentioned in the books is the factory address and the rental agreement is unregistered. On second instance, half of penalty levied as it is a small company.

			<p>b) Mentioning of wrong registered office in the forms and resolutions</p> <p>c) Delay filing of INC-22</p> <p>CIN number not mentioned on Board's report.</p>	
<b>3</b>	<b>GWALIOR-2</b>	<p>On Company - Rs.1,00,000/-</p> <p>On 1 director- Rs.1,00,000/- each</p>	<p>Orders passed against the Company as prescribed under section 12 of the Companies Act, 2013 for Non maintenance of registered office</p>	<p>ROC has sent a notice to the company by post to its registered office. The post was undelivered, so it is evident that the company has not maintained the registered office. Company and officer in default were penalized in both the instances</p>
<b>4</b>	<b>CHHATTISGARH-3</b>	<p>On Company –</p> <p>Maximum Rs.69,000/- each</p> <p>Minimum Rs.10,000/-</p> <p>On directors-</p> <p>Maximum Rs.69,000/- each</p> <p>Minimum Rs.10,000/-</p>	<p>Company has failed to mention the email id and phone number in the resolution of the form(i) INC-24 (ii)GNL-2 (iii) notice of EGM</p>	<p>On first and third instance, the officers in default has admitted the error and pleaded for removal of penalties, upon that also, the adjudication order was passed. Despite, being a small company, the penalty amount was charged as per provision only.</p> <p>On second instance, Officer in default admitted the mistake and pleaded guilty and submitted their letter head format in which they have mentioned the details. The officer in default did not appear for a hearing and the company&amp; directors were penalized.</p>

**Failure to Circulate the Auditors Report and Boards Report to Members as prescribed u/s 136**

SL. NO	ROC JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	DELHI-1	On Company - Rs.25,000/- On 5 directors- Rs.5000/- each	The Company failed to send Auditors Report and Boards Report along with the AGM Notice as prescribed under section 136 of the Companies Act, 2013	The company failed to send copy of financial statements and auditor's report along with the notice of AGM to members of the company. Since company is not a small company, penalty was charged as mentioned in section 136

**Failure To Maintain Minutes of The Board Meeting as prescribed u/s 118**

SL. NO	ROC JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	MUMBAI-2	On Company - Rs.25,000/- On 6 directors- Rs.5000/- each	Pages of the minutes book has not been consecutively numbered as prescribed under section 118(1) of the Companies Act, 2013	On first instance, the default committed did not affect the interest of the shareholder. However, the penalty was charged as per provision. On second instance, Response from the client has not been mentioned in the order.
2	DELHI-1	On Company - Rs.25,000/- On 5 directors- Rs.5000/- each	The company has failed to send copy of financial statements and auditor's report along with the notice of AGM to members of the company	Since company is not a small company, penalty was charged as mentioned in section 136



**Non- performance of Duties of Auditors as prescribed u/s 143**

SL. NO	ROC JURISDICTION AND NO. OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	PATNA-1	On auditors: Under section 450 Rs.10,000/- Under section 446B Rs.5,000/-	Auditor failed to mention the transactions made on "specific bank notes' in the auditor's report.	Auditor has mentioned in the auditor's note that the company has not transacted "Specified bank notes" However, the director, in his reply to the notice, has mentioned the details of deposits which was missed to be mentioned by the auditor. Section 143(11)d clause has been removed from the Act but the auditor was penalized for this reason. Since there is no penalty provision in section 143, the auditor was penalized under section 450 and 446(B)

## ADJUDICATION ORDERS OF THE RD

SL. NO	RD JURISDICTION AND NUMBER OF ORDERS PASSED	PENALTY REDUCED		NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS
1	SOUTHEAST – 1	<b>ROC</b>  <b>Company:</b> Rs.57,000/-  <b>Officer in Default:</b>  Rs.57,000/- each for 3 directors	<b>RD</b>  <b>Company:</b> Rs.50,000/-  <b>Officer in Default:</b>  Rs.50,000/- each for 3 directors	Noncompliance on Resignation of director	Delay in filing of form DIR 12(resignation of director) by 14 days Modified –Reduced the penalty amount owing to difficulties like Covid 19 Pandemic, huge losses made by the Companies, Company faced with heavy losses etc.
2	SOUTHEAST – 3	<b>ROC</b>  <b>Company:</b> Rs.57,000/-  <b>Officer in Default:</b>  Rs.57,000/- each for 3 directors	<b>RD</b>  <b>Company:</b> Rs.15,000/-  <b>Officers:</b>  Rs.30,000/- each for 2 officers  <b>Directors:</b>  One director - Rs.25,200/-	Delay in filing of form INC 20A	Appeal filed against adjudication order for delay in filing of INC-20A by 316 days.  The penalty quantum raised by ROC has been reduced by 30% as the company has complied with requirement of filing FDI approval as per PN3 before due date.

			Another director - Rs.5,400/-		But the FDI approval was received after the due date only.
<b>3</b>	<b>SOUTHEAST – 7</b>	<b>ROC</b>  <b>Company:</b> Rs.57,000/-  <b>Officer in Default:</b>  Rs.57,000/- each for 3 directors	<b>RD</b>  <b>Company:</b> Rs.15,000/-  <b>Officers:</b>  Rs.30,000/- each for 2 officers  <b>Directors:</b>  One director - Rs.25,200/-  Another director - Rs.5,400/-	203 (1) Non-compliance with respect to non-appointment of Company Secretary	Modified- 7- The penalty quantum raised by ROC has been reduced by 30% as the company has complied with requirement of filing FDI approval as per PN3 before due date. But the FDI approval was received after the due date only.