

MONTHLY UPDATES ON ADJUDICATION ORDERS  
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ADJUDICATION ORDERS OF THE ROC DURING THE MONTH OF SEPTEMBER 2023

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- 1) Chhattisgarh, ROC has imposed the highest number of orders during the Month of September – i.e., 49 orders, followed by Ahmedabad ROC with 20 orders .
- 2) The **highest number of orders** have been imposed for violation of **Section 12** of the Companies Act, 2013 i.e., Failure to mention Name of the company, Registered office address, CIN of the company in the official publications and non-maintenance of register office as per the Provisions of the Act.
- 3) Ahmedabad and Chhattisgarh ROC has penalized 21 companies under section 10A for defaulting in filing Form INC-20A (declaration on commencement of business)
- 4) ROC, Delhi has penalized the company based on the "Emphasis of matter" raised by auditors in the audit report stating that the company has adopted and approved CSOP plan and issued to 565 subscribers. As per section 42(2), company can make private placement not more than 200 persons. According to section 42(7), companies should not make any advertisements to invite the public at large about such issues. Whereas this company has violated the same and has not filed PAS-3. Though CSOP does not come under definition of securities, it comes under Derivatives, hence it is a violation of non-filing of PAS-3 and allotments were made more than 200. Considering the above grounds, the company was penalized.
- 5) Under Section 92, ROC, Ahmedabad has penalized 5 companies for failure to file Annual return.
- 6) ROC, Pune has penalized a company under section 117 for failure to file copy of resolution under section 117(1) in form MGT-14
- 7) ROC, Delhi has penalized a company under section 134 and 135, since the company has mentioned that CSR is not applicable under boards report and the company has not spent CSR obligations though it falls under the CSR applicability criteria. All the directors were penalized under section 135 and the authorized signatories were penalized under section 134.

8) ROC, Ahmedabad has penalized for the following:

- i) under section 137- for failure to file Financials statements.
- ii) Penalized an auditing firm for Delay in filing notice of resignation of auditor in form ADT-3
- iii) Penalized 2 companies under section 159 for non – filing of form DIR-6
- iv) ROC, Ahmedabad and Pune have penalized 3 companies under section 203 on failure to appoint Key managerial personnel

**ADJUDICATION ORDERS OF THE ROC DURING THE MONTH OF SEPTEMBER 2023**

**Non filing of Annual return as prescribed u/s 92**

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	AHMEDABAD-5	On Company - Rs.3,24,500/- On directors- Rs. 5,40,000/-	Orders passed against the Company which defaulted in filing of Annual return for various years	For all the four instances, the companies did not file the Annual return for various years. Notice was issued to the company calling for enquiry and then after hearing the companies were penalized.  In One instance, the Company got AGM extension till December 2019, but Form MGT-7 was filed beyond the due date only hence the company was penalized.

**Non filing of Financials as prescribed u/s 137**

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	AHMEDABAD-4	On Company - Rs.3,25,900/- maximum On directors- Rs.5,40,000/- maximum	Non-filing of financial statements by defaulting companies for respective years.	In One instance, the ROC order dated 20-4-2022 is now published in MCA under the month September 2023
<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	AHMEDABAD-5	On 3 directors- Rs.1,00,000/- each and on Company - Rs.1,00,000/-	Orders passed against the Company for: 1)Non maintenance of registered office 2)CIN number not mentioned in the financials of the company for various years. 3)Boards report was not in the letterhead for various years	In one instance, the company was a small company and penalty was levied under section 446(B) In another instance, for "Q Top Fab Engineering private limited" order dated 10-2-2022 is now published in MCA for Sept 2023. ROC has sent a notice to the company and the post was undelivered. An Adjudication order was passed stating that the company has not maintained the registered office. The company

				<p>justified that they were renovating the office so the employees were unavailable hence the notice was undelivered. So that minimal penalty amount was imposed on the company.</p> <p>In another instance, the company submitted all the relevant proofs during the hearing stating that the company has a register office. So, considering the company's request, one day penalty was imposed.</p>
<b>2</b>	<b>CHHATTISGARH-29</b>	On 3 directors- Rs.1,00,000 each and on Company - Rs.1,00,000/-	<p>Orders passed against the Company for:</p> <p>1)Non maintenance of registered office</p> <p>2)CIN number not mentioned in the financials of the company for various years</p> <p>3)Boards report was not in the letterhead for various years</p>	<p>In two instances, Penalty was levied as per section 446(B) Since it was a small company.</p> <p>In one instance, Company has sent a notice of scheme of amalgamation inviting objections or suggestions. The reply letter by the ROC was undelivered. Hence ROC issued the notice for non-maintenance of register office.</p>
<b>3</b>	<b>ERNAKULAM-1</b>	On Company : Rs.1,00,000/- On 2 Directors :Rs.1,00,000/- each	Orders passed against the Company for non-maintenance of registered office.	Paid up capital of the company is Rs.1,00,000/- since annual filing has not been made for the defaulted year, turn over cannot be ascertained, so the small company benefit was not given and

				the company has been penalized as per section 12(8).
4	GOA-1	On Company : Rs.1,00,000/- On 3 Directors :Rs.1,00,000/- each	Orders passed against the Company for non-maintenance of registered office	
<b>Delay in filing of E-Form INC 20A (Declaration of Commencement of Business) as prescribed u/s 10A</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	AHMEDABAD-1	On Company: Rs.50,000/- On 2 Directors :Rs.2,50,000/- each	Orders passed against the Company for failure to file form INC-20A.	
2	CHHATTISGARH-20	On Company: Rs.50,000/- On Directors :Rs.1,00,000/- each	Orders passed against the Company for failure to file form INC-20A.	In one instance, The Director pleaded that he is not aware of MCA rules, and non-filing was not intentional. Despite that penalty was levied
<b>Failure to comply to with provisions of Private Placement as prescribed u/s 42</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	DELHI-1	On Company : Rs.2,00,000/- On 3 Directors :Rs.100,000/- each	<p>The Company was unable to comply with following provisions of Section 42 of the Act: -</p> <ol style="list-style-type: none"> <li>1) Filing of Form PAS-3 within 15 days from the date of allotment.</li> <li>2) Allotment made for more than 200 subscribers.</li> <li>3) Advertisements made for the public at large</li> </ol>	<p>"Emphasis of matter" was raised by auditors in the audit report for FY 2021-22 stating that the company has adopted and approved (CSOP)Community stock option plan and issued to 565 subscribers. A per section 42(2), company can make private placement not more than 200 persons.</p> <p>According to section 42(7), companies should not make any advertisements to invite public at large about such issue. Whereas the company has violated the same. The company responded that CSOP does not come under definition of securities.</p> <p>But the CSOP comes under the definition of Derivatives, it is a violation of non-filing of PAS-3 and allotments were made more than 200 subscribers. Considering the above grounds, the company was penalized.</p>

**Failure to file resolutions and agreements as prescribed u/s 117**

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
<b>1</b>	<b>PUNE-1</b>	On Company: Rs.16,750/- On Director: Rs.16,750/-	The Company was unable to comply with below provision of Section 117 of the Act: -  1) Failure to file copy of resolution under section 117(1) in form MGT-14	The company was penalized under section 446-B, as it is a small company.  The small company definition mentioned in the order is the paid-up capital is 2 crore and turnover is 20 crore.  However as per the Companies act, the small company criteria is paid up capital 4 crore and turnover 40 crore.

**NON-COMPLIANCE OF SECTION 134(3)(o)**

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
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1	DELHI -1	On Company: Rs.3,00,000/- On 2 authorized signatory Directors :Rs.50,000/-	The Company was unable to comply with below provision of Section 134 of the Act: -  Default made in board's report.	In this instance, the company has to spent the required amount as a part of CSR obligations. But the Company disclosed in its Board Report for F.Y. 2020-21 that the Company is not required to constitute a Corporate Social Responsibility Committee. Company responded that the non-compliance is due to lack of knowledge in law and pleaded guilty.
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**NON-COMPLIANCE OF SECTION 135**

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.13,72,960/- On 4 Directors: Rs.68,648/- each	The Company was unable to comply with below provision of Section 135 of the Act:  Failure to spend on CSR obligations.	In this instance, the company must spend the required amount as a part of CSR obligations based on the paid up capital and turnover. But the Company has not formed the CSR committee and has not complied with the provision.

**NON-COMPLIANCE OF SECTION 140**

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	AHMEDABAD-1	On auditor Rs.1,00,000/-	The auditor has not complied with the provision under section 140 since it has Delayed in filing notice of resignation of auditor in form ADT-3.	In this instance, even though the ex-auditor has filed form ADT-3 with delay fees. But penalty was imposed for violation of the act

**NON-COMPLIANCE OF SECTION 159**

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	AHMEDABAD-1	On directors Rs.5000/- each	The director has not complied with the provision under section 140. He has failed to file DIR-6 for change in address	Directors responded that they did not change the location, they were at their son's place due to Covid pandemic. EB bill has been submitted as proof.

**FAILURE TO APPOINT KEY MANAGERIAL PERSONNEL UNDER SECTION 203**

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	AHMEDABAD-2	On Company: Rs.5,00,00/- On 2 Directors: Rs.5,50,000/- for three years	Failure to appoint Key managerial personnel in FY 2014-2015	
2	PUNE-1	On Company: Rs.5,00,000/- On 3 Directors :Rs.219,000/- each	Failure to appoint Key managerial personnel from 2018-19	In this instance, the Company couldn't find a CS to appoint and hence there was a delay

**ADJUDICATION ORDERS OF THE RD DURING THE MONTH OF SEPTEMBER**

SL. NO	RD JURISDICTION AND NUMBER OF ORDERS PASSED	PENALTY REDUCED	NATURE OF NON- COMPLIANCE	OTHER RELEVANT POINTS
<b>NIL</b>				