

MONTHLY UPDATES ON ADJUDICATION ORDERS

Edition No.04 April 01, 2023 to April 30, 2023

ADJUDICATION ORDERS OF THE ROC DURING THE MONTH OF APRIL 2023

PRAGYA SPOTLIGHT

1. Delhi ROC has imposed the highest number of orders during the Month of April – i.e., 7 orders, followed by ROC Patna with 5 orders.
2. The highest number of orders have been imposed under Section 137 and Section 92 of the Companies Act 2013, for default in filing financials and annual return within the prescribed time.
3. Ex-Parte order have been issued by the ROC this month pertaining to section 12 i.e. non maintenance of Registered office.
4. Payment of additional fees for delayed filing does not absolve the Company from the penal proceedings by the Regulators.
5. ROC Hyderabad has received applications from 431 Companies for removal of their names from the Register of Companies on the grounds that they have failed to commence business within one year of their incorporation or not carrying on any business for a period of two immediately preceding financial years.
6. ROC Delhi has imposed penalty on the Companies for not holding minimum number of board meetings (4) in a calendar year.
7. Benefits of small Company is extended to companies under section 446B of the Companies Act 2013 at the time of adjudication of penalty, but not to subsidiaries of Foreign Companies.

8. The benefit of Small Company is not extended if the Company has not filed Financial Statement and Annual returns from the year of incorporation.
9. ROC Delhi penalized the signatory who had given incorrect information while filing form DIR-11 (Resignation of Director) instead of penalizing the Company or other officers.
10. ROC- Coimbatore penalized the Company and its Directors for not appointing a whole time Company Secretary despite crossing the threshold.
11. Non compliances adjudicated have been under the following heads:
 - Non filing of Financial Statements and Annual Return
 - Failure to maintain Registered office as communication from Authorities got undelivered.
 - Failure to hold minimum number of meetings.
 - Delay in filing of forms (Return of allotment)
 - Failure to observe secretarial standards with respect to Board meetings
 - Failure to file form INC-20A i.e. declaration of commencement of business.
 - Failure to appoint whole time Company Secretary
 - Failure on the part of the signatory to the e form for providing incorrect information in the form.

Non filing of Financials and Annual Return				
SL. NO	ROC JURISDICTION AND NUMBER OF ORDERS PASSED	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS
1	CHHATTISGARH – 2	Company: Rs. 10,96,200 Officers in default: Rs. 85,950 on each of the officer in default.	Orders passed against the Companies which defaulted in filing of the following: <ul style="list-style-type: none">• Annual Return – MGT 7• Annual Financial Statements – AOC 4	The penalty amount is determined by the number of years of default i.e.8 years.
2	SHILLONG – 1	Company: Rs. 85,950 Officers in Default: Rs. 60,000 on each of the officer in default.	Orders passed against the Companies which defaulted in filing of the following: <ul style="list-style-type: none">• Annual Return – MGT 7• Annual Financial Statements – AOC 4	The penalty amount is determined by the number of years of default i.e. 1 year.
3	PATNA -2	Company: Max: Rs. 3,38,400 Min: Rs. 3,32,400 Officer in Default (each):Rs. 1,25,000	Orders passed against the Companies which defaulted in filing of the following: <ul style="list-style-type: none">• Annual Return – MGT 7• Annual Financial Statements – AOC 4	The penalty amount is determined by the number of years of default i.e.5 years.

Failure to maintain Registered office as communication from Authorities got undelivered				
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	Company: Rs. 96,000 Officer in Default: Rs. 96000 on each of the officers in default	<ul style="list-style-type: none"> Failure to maintain Registered Office – Letters issued to the Company returned undelivered. 	It is observed that the period of default is calculated from the date of delivery of letter till date of passing order of adjudication.
2	AHEMDABAD -1	Company: Rs. 8000 Officer in Default: Rs. 8000 on each of the officers in default	<ul style="list-style-type: none"> Failure to maintain Registered Office – Letters issued to the Company returned undelivered. 	Ex-parte order since no response from Defaulter.
3	CHHATTISGARH - 1	Company: Rs. 1,00,000 Officer in Default: Rs. 1,00,000 on each of the officers in default	<ul style="list-style-type: none"> Failure to maintain Registered Office – Letters issued to the Company returned undelivered. 	It is observed that the period of default is calculated from the date of delivery of letter till date of passing order of adjudication.

Failure to hold minimum number of meetings.				
SL. NO	DATE OF ORDER AND ROC JURISDICTION	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	DELHI - 1	Company: Rs.41,000 Directors: Rs. 41,000 on each of the officers in default.	The Company has conducted only 3 board meetings in the calendar year 2020, even though it had complied with fulfilling the requirement of holding meeting within 120 days.	It is observed that the Company is a subsidiary of Foreign holding Company, so small Company benefits is not extended to the Company.

Delay in filing of forms (Return of allotment)				
SL. NO	ROC JURISDICTION	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	PATNA - 2	Company: Rs. 50,000 Officer in Default: Rs. 50,000 on each of the officers in default.	<ul style="list-style-type: none"> Company had failed to file form PAS-3 for allotment of securities. 	It is observed that number of members as shown in form MGT7 filed by the Company has not matched as per the records maintained with the office.

Failure to observe secretarial standards with respect to Board meetings				
SL. NO	ROC JURISDICTION	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	DELHI - 1	Company: Rs. 25,000 Directors: Rs. 5,000 on each of the officers in default.	<ul style="list-style-type: none"> Company violated Secretarial Standards- 1 (Meetings of the Board of Directors) by not fulfilling the minimum requirement of holding Board meeting. 	

Failure to file form INC-20A I.e. declaration of commencement of business.				
SL. NO	ROC JURISDICTION	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	DELHI – 3	Company: Rs.50,000 Officer in Default: Rs. 1,00,000 (Maximum penalty levied)	Company had delayed in filing form INC-20A due to which ROC stuck off the name of the Company under section 248 of the Companies Act 2013.	It is observed that provisions of Section 446B are applicable but due to non-filing of annual returns and financial statements from the year of incorporation, benefits u/s 446B were denied.

Failure to appoint whole time Company Secretary				
SL. NO	ROC JURISDICTION	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	COIMBATORE- 2	Company: 5,00,000 Officer in Default: 5,00,000 on four Directors.	The company failed to appoint a whole time company secretary despite crossing the threshold for 3 years.	

Violation of rule 8 of the Companies (Registration offices and fees) rules 2014				
SL. NO	ROC JURISDICTION	ORDER PASSED AGAINST AND AMOUNT OF PENALTY	NATURE OF NON-COMPLIANCE	OTHER RELEVANT POINTS, IF ANY
1	DELHI - 2	Signatory: Rs. 5,000	Form DIR-11 has been filed with incorrect date of resignation. Date of resignation as shown in form and date of resignation as shown in resignation letter were not the same.	