

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec. 454(5)/ Raj Hospitality/T35477447/2021

13398
26 NOV 2021

In the matter of Companies Act, 2013: Section 454(5)

AND

In the matter of RAJ HOSPITALITY PRIVATE LIMITED

having Registered Office at VARANDA DOS MAR, NEXT TO GOA SCIENCE

CENTRE, MIRAMAR, North Goa, Goa - 403 001

....Appellant

ORDER

1. This appeal is filed under sub-Section (5) of Section 454 of the Companies Act, 2013 (hereinafter referred to as the "Act") read with Companies (Adjudication of Penalties) Rules, 2014 (hereinafter referred to as the "Rules") by RAJ HOSPITALITY PRIVATE LIMITED (hereinafter referred to as the "Company" or "Appellant") having CIN U55101GA2001PTC002952, incorporated under the Companies Act, 1956, having its registered office at having Registered Office at Varanda Dos Mar, Next To Goa Science Centre, Miramar, North Goa, Goa - 403 001 against the order passed by Registrar of Companies, Goa, adjudicating a penalty for violation of Section 92(5) and 137(3) of the Companies Act, 2013 read with Companies (Adjudication of Penalties) Rules, 2014 vide Order No. ROCGDD/Penalty Order/2019/469 dated 09.05.2019.
2. The order was passed by the ROC on 09.05.2019 and the appeal is filed with this appellate forum having jurisdiction in the matter being the Regional Director having jurisdiction in the State of Maharashtra and Goa. Thus, this appellate forum is having jurisdiction.
3. The appeal in Form ADJ (SRN T35477447) is filed on 13.08.2021. As per provisions of Section 454(6), an appeal under sub-Section (5) of Section 454 is to be filed within a period of 60 days from the date of which the copy of the order made by the adjudicating officers is received by the aggrieved person. On examination of the Application/ Appeal it is seen that the said appeal is not filed within sixty days (60) from date of passing adjudication order by the Registrar of Companies, Goa (i.e. 09.05.2019) hence the company filed an application for condonation of delay vide form CG-1 and

order has been received by the company in this regard. Accordingly, the appeal is considered for further processing.

4. The brief facts of the case are as under:
- The appeal is filed by the Appellants. The appellants have violated the provision of Section 92(5) and 137(3) of the Companies Act, 2013
 - The appellant company and its officer have made default for non-compliance of Section 92(5) and 137(3) of the Companies Act, 2013
 - Registrar of Companies, Goa has issued show cause notice dated 01.03.2019 to the company and its directors seeking information and reply from applicants received on 08.04.2019 stating that they have filed financial statement and annual returns for the financial year ending 31.03.2017 on 01.04.2019. The Registrar of Companies, Goa has observed from the master data, company has filed its financial statement and annual returns on 01.04.2019 for financial year ending 31.03.2017. But returns for the financial year ending 31.03.2018 are not filed and default continues.
 - Further, as per records maintained by the Registrar of Companies, Goa Mr. Rohit Monserrate (DIN: 02415555) is disqualified under section 164(2)(a) of the Companies Act, 2013 for the period from 01.11.2016 to 31.10.2021. Therefore, penalty is not being imposed on him.
5. After considering all the facts and circumstances The Registrar of Companies, Goa has imposed penalty as per table below,-

Document Required to be filed	No of Days of Default *	Penalty imposed on Company /Director	First Default (in Rs)	Default Continues (in Rs)	Total (in Rs)
Financial Statement u/s 137(1) of the Companies Act, 2013	189 days	On Company	Rs.1000X189=Rs.1,89,000/-		Rs.1,89,000/-
		Mr. Atanasio Monserrate	Rs.1,00,000/-	Rs.100X189=Rs.18,900/-	Rs.1,18,900/-
		Mrs. Jennifer Monserrate	Rs.1,00,000/-	Rs.100X189=Rs.18,900/-	Rs.1,18,900/-
		Mr. Amit Monserrate	Rs.1,00,000/-	Rs.100X189=Rs.18,900/-	Rs.1,18,900/-
Annual Returns u/s 92(4) of the Companies Act, 2013	160 days	On Company	Rs.100X150=Rs.16,000/-		Rs.66,000/-
		Mr. Atanasio Monserrate	Rs.50,000/-	Rs.100X160=Rs.16,000/-	Rs.66,000/-
		Mrs. Jennifer Monserrate	Rs.50,000/-	Rs.100X160=Rs.16,000/-	Rs.66,000/-
		Mr. Amit Monserrate	Rs.50,000/-	Rs.100X160=Rs.16,000/-	Rs.66,000/-

*No. of days have been calculated from November, 2018 '7 December 2018 for Financial Statement and Annual Return respectively till date of order.

6. In the appeal, the appellant has stated as under:
- The Company had held its Annual General Meetings for the year ended 31.03.2017 on 30.09.2017 and for the year ended 31.03.2018 on 29.09.2018. Accordingly, the company was required to file Financial

Statement and Annual Returns for the financial year ended 31.03.2017 on or before 27.10.2017 and 27.11.2017 and for the year ended 31.03.2018 on or before 27.10.2018 and 27.11.2018 respectively (extended up to 31.12.2018 vide General Circular No. 10/2018 dated 29/10/2018. The Company submits that the financial statements for financial year ended 31.03.2017 and 31.03.2018 were filed dated 01.04.2019, 05.12.2019 and 06.12.2019 respectively.

- ii. The company has complied with the Annual Filing and the same has been updated for the year ended 31.03.2020.
 - iii. Company further submit that the company is small company having paid-up share capital of Rs. 2,00,000/-. The Applicant admit that there occurred delay in filing the Annual Return due to reasons beyond control of the applicants. They have no mala-fide or fraudulent intention in delay in filing the particulars within the prescribed period.
 - iv. The Appellant(s) prays that the financial statements and annual returns filed be requested to be approved and taken on record and the delay be condoned and withdraw the order of Adjudication of Penalty dated 09.05.2019 as the amount of penalty awarded will put further financial burden on the Directors who are already facing financial problems due to the ongoing pandemic. Further, the company already filed delayed documents with the Registrar of Companies, Goa by paying additional fees.
7. This forum provided hearing to the Appellants through Video Conference on 12.11.2021 at 2.30 p.m. on which dated Mr. Sadashiv V Shet, PCS as authorized representative appeared on behalf of the Appellant Company and Directors in default. I have carefully considered the impugned order, all the submissions made by the Appellant in the appeal and oral submissions made by the Learned Representative of the company during the hearing held on 12.11.2021. Accordingly, the appeal is allowed and it was directed to the representative of the Appellant Company that the revised penalty to be paid as under, -



Sr. No	Document required to be filed	No. of days of default	Penalty to be paid by Company/Director (Officer in default)	Penalty Rs.
1	Financial Statement u/s 137(1) of the Companies Act, 2013	189 days	On Company	47,250/-
			Mr. Atanasio Monserrate	29,725/-
			Mr. Jennifer Angela Judy Lobo	29,725/-
			Mr. Amit Monserrate	29,725/-
2	Annual Returns u/s 92(4) of the Companies Act, 2013	160 days	On Company	16,500/-
			Mr. Atanasio Monserrate	16,500/-
			Mr. Jennifer Angela Judy Lobo	16,500/-
			Mr. Amit Monserrate	16,500/-
Total Penalty Amount				2,02,425/-

Total penalty comes to Rs. 2,02,425/- for violation of Section 92(5) and 137(3) of the Companies Act, 2013.

8. Pursuant to the said directions of this forum, the Appellant Company vide mail dated 24.11.2021 submitted the copies of challan/payment receipt for penalties paid to the MCA and state that as directed in virtual hearing which was held on 12.11.2021, the total penalty of Rs. 2,02,425/- has been paid violation of Section 92(5) and 137(3) of the Companies Act, 2013 by the Company and officer in default through challan to MCA. The details of the said Challan are as under: -

Sr. No	Document required to be filed	Defaulters	Amount (Rs.)	Challan No. / SRN No. & date
1	Financial Statement u/s 137(1) of the Companies Act, 2013	On Company	47,250/-	X0147098 dated 23.11.2021
		Mr. Atanasio Monserrate	29,725/-	X01502673 dated 23.11.2021
		Mr. Jennifer Angela Judy Lobo	29,725/-	X01566678 dated 24.11.2021
		Mr. Amit Monserrate	29,725/-	X01543818 dated 24.11.2021
2	Annual Returns u/s 92(4) of the Companies Act, 2013	On Company	16,500/-	X01553759 dated 24.11.2021
		Mr. Atanasio Monserrate	16,500/-	X01555903 dated 24.11.2021
		Mr. Jennifer Angela Judy Lobo	16,500/-	X01566678 dated 24.11.2021
		Mr. Amit Monserrate	16,500/-	X01568716 dated 24.11.2021
Total Penalty Amount			2,02,425/-	

9. In view of the above and penalty having been paid by the Appellant Company and officers in default, the Appeal is disposed off accordingly.
10. A copy of this order shall be published on the website of the Ministry of Corporate affairs as per Rules.

Signed and sealed on 26th day of November, 2021.



M.P. Shah
(M.P. SHAH)
REGIONAL DIRECTOR
WESTERN REGION, MUMBAI.

1. Raj Hospitality Private Limited
VARANDA DOS MAR, NEXT TO GOA SCIENCE CENTRE,
MIRAMAR, North Goa,
Goa - 403 001.
2. The Registrar of Companies, Goa
3. E-Gov Cell, Ministry of Corporate Affairs,
New Delhi
4. Master Copy
5. Office Copy