

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec.454(5)/Vidarbha Bidi Limited / 460

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

AND

14 JUN 2021

In the matter of **VIDARBHA BIDI LIMITED**

having Registered Office at House No. 16, Natraj Gardan Khamgaon, Buldhana,

Maharashtra- 444303

.....Appellant

**Parties Present:**

Mrs. Sujata R. Rajebahadur, Company Secretary, authorized representative attended hearing through Video Conference on behalf of the Appellant Company and officers in default on 09.04.2021.

**Date of Hearing: 09.04.2021**

**ORDER**

Heard

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 Vidarbha Bidi Limited (hereinafter referred to as the "Company" or "Appellant") having CIN U16000MH1991PLC061334, incorporated under the Companies Act, 1956, having its registered office House No. 16, Natraj Gardan, Khamgaon, Buldhana, Maharashtra- 444303, against the order passed by Registrar of Companies, Mumbai adjudicating a penalty for violation of Section 12(1) r/w Section 12(4) of the Act, 2013 vide Order No. ROC (M) /CMC/RS/ADJ-ORDER/222871/4035/ dated 20.02.2020.
2. The order was passed by the ROC on 20.02.2020 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 on Form ADJ (SRN R37124088) is filed on 17/04/2020. 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. In this case, the appellant company has admitted that the order was received on 24.02.2020 and the appeal is filed on 17.04.2020. The appeal was filed on 17.04.2020 and thus is within the stipulated period of 60 days in terms of provisions of Section 454(5) of the Act, The brief facts of the case are as under:
  4. The brief facts of the case are as under:
    - a. The appeal is filed by the Appellant Company. The Appellant and its officers in defaults have violated the provision of Section 12 of the Companies Act, 2013.
    - b. The ROC has issued show cause notice dated 14.02.2019 to the company and its directors calling them to show cause for non-compliant of Section 12 of the Companies Act, 2013. In response to the said Show cause notice, the Company submitted its reply dated 26.02.2019 and explained the matter.
    - c. The ROC has imposed penalty of Rs.1,00,000/- (Rupees One Lakh only) on each of the addressees of the order dated 20.02.2020 ( i.e. Company & three (3) officers in default, under Section 12 (8) of the Act.
5. In the appeal, the appellant has taken the following grounds:
  - a. The Company has its registered office in Akola till 31<sup>st</sup> August, 2020 and a person is entrusted with receiving and acknowledging all communications at that office.

- b. The name of the Company and the address of the registered office are displayed there as per the provisions of the section 12(1) and 12(3) of the Companies Act, 2013.
- c. The Notice sent by IEPF Authority, New Delhi in October, 2018 was returned undelivered as the person responsible must have gone out of the office for some official work, which coincidentally happened at the time of the postman coming for the delivery of the IEPF Notice.
- d. Due to the above reason, unfortunately, we could not receive the notice sent by the IEPF authority.
- e. We submit that the lapse was unintentional and happened inadvertently.
- f. The Company has, at all times on working days, a contact person present at the registered office of the company at Block No.4, Gurukrupa Towers, Old Kapad Bazar, Tanaji Peth Akola-444001 till 31<sup>st</sup> August, 2020. We have also received the present order of penalty and SCN at the registered office address at Akola. Thus, it is evident that Company has, at all times, its registered office at above mentioned address.
- g. The Company has received all the communications from all authorities including ROC and IEPF authority except the one. Thus, the default is non-repetitive in nature.
- h. The Company had filed form INC-22A pursuant to Rule 25A of the Companies (Incorporation) Rules, 2014, confirming address and situation of its registered office vide SRN H64905516 dated 14<sup>th</sup> June, 2019 along with the photograph of director duly taken at the registered office location.
- i. The Company being closely held Public Limited Company, the default has not caused any loss to an investor or group of investors. As default is non-repetitive the penalty imposed is not fair and just.

6. This forum provided hearing to the Appellants through Video Conference on 09.04.2021 at 11.30 a.m. on which date Mrs. Sujata Rajebhadur, Company Secretary as authorized representative appeared on behalf of the Appellant Company and Directors in default and made submissions. I have carefully considered the impugned order, all the submissions made by the Appellant in the appeal and oral submissions made by the above said authorized representative during the hearing. Accordingly, the appeal is allowed and it was directed to the Appellant Company & officer in default that revised penalty to be paid as under:

Sr. No.	Defaults made under Section	Penalty to be paid by Company/Director (officer in default)	Penalty Rs.
1.	Section 12(1) r/w Section 12(4) of the Act, 2013	Company	25,000/-
		Shri Bhausaheb Sukhadev Pawar	25,000/-
		Shri Gautam Punjaji Ahire	25,000/-
		Shri Rajesh Kamalkar Tikote	25,000/-
Total :-			1,00,000/-

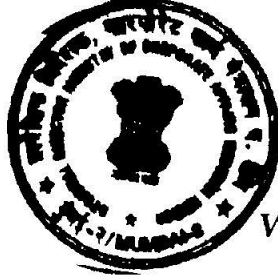
Total penalty comes to Rs.1,00,000/-for violation of Section 12 of the Act, 2013

7. Pursuant to the said directions of this forum, the authorized representative vide e-mail dated 24.04.2021 has forwarded the copies of challan /payment receipt and stated that they have deposited total penalty amount of Rs.1,00,000/- to MCA as directed in virtual hearing which was held on 09.04.2021. The details of the said challans are as under:-

Sr. No	Defaulters	Amount (Rs.)	Challan No. / SRN No. & date
1	Company	25,000/-	SRN: U87324976 Dated 23.04.2021
2	Sri Bhausaheb Sukhadev Pawar	25,000/-	SRN: U87326963 Dated 23.04.2021
3	Shri Gautam Punjaji Ahire	25,000/-	SRN: U87324646 Dated 23.04.2021
4	Shri Rajesh Kamalakar Tikote	25,000/-	SRN: U87329132 Dated 23.04.2021
Total :-		1,00,000/-	

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

Signed and sealed on 14<sup>th</sup> day of June, 2021.



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

- ✓ 1. Vidarbha Bidi Limited  
House No. 16, Natraj Gardan, Khamgaon,  
Buldhana, Maharashtra- 444303
2. The Registrar of Companies, Mumbai.
- ✓ 3. Master Copy
4. Office Copy.

**"Certified True Copy"**

*S.M. Saindane*  
S. M. Saindane  
Joint Director  
O/o. Regional Director  
Ministry of Corporate Affairs,  
Mumbai-2.