

10 NOV 2021
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BEFORE THE REGIONAL DIRECTOR, WESTERN REGION
MINISTRY OF CORPORATE AFFAIRS, MUMBAI
REF: RD(WR)/Sec.454(5)/Nirmaan Creatives Private Limited/T36375814/2021

In the matter of Nirmaan Creatives Private Limited

In the matter of Appeal under section 454(5) of the Companies Act, 2013

CORRIGENDUM

With reference to and in continuation to this Directorates order no. RD(WR)/Sec.454(5)/Nirmaan Creatives Private Limited/T36375814/2021 dated 28.10.2021(copy enclosed), it is noted that the said order contained inadvertent errors in para no.3 - seventh line and para no. 7 - table and the corrections are made as follows:

Sr. No.	Errors
1. (Para - 3- Seventh Line)	The appeal in Form ADJ (SRN T36375814) is filed on 19.08.2021. 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 <u>Registrar of Companies, Pune (i.e. 03/03/2020)</u> due to COVID pandemic.
	Correction
	The appeal in Form ADJ (SRN T36375814) is filed on 19.08.2021. 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 <u>Registrar of Companies, Mumbai (i.e. 03/03/2021)</u> due to COVID pandemic.

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2. (Para-7 -Table)	Errors		
	The details of the said Challan are as under:-		
	Sr. No	Defaulters	Amount (Rs.)
	1	Company	7,500/-
	2	Indira S. Agarwal	5,000/-
	3	Suresh G. Agarwal	5,000/-
		Total	80,000/-
	Correction		
	The details of the said Challan are as under:-		
	Sr. No	Defaulters	Amount (Rs.)
1	Company	7,500/-	
2	Indira S. Agarwal	5,000/-	
3	Suresh G. Agarwal	5,000/-	
	Total	17,500/-	

The other facts of the aforesaid order will remain same.

Signed and sealed on 9th day of November, 2021.



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

1. Nirmaan Creatives Private Limited
9/C, Shivshakti Complex, Near Manav Kalyan Kendra,
S. V. Road, Dahisar (East), Mumbai - 400 068.
2. The Registrar of Companies, Mumbai
3. E-Gov Cell, Ministry of Corporate Affairs,
New Delhi
4. Master Copy
5. Office Copy

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec. 454(5)/ Nirmaan Creatives Private Limited/T36375814/2021/2894 10
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विद्युत डाक सेवा
SPEED POST

2 NOV 2021

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

AND

In the matter of NIRMAAN CREATIVES PRIVATE LIMITED

having Registered Office at 9/C, Shivshakti Complex, Near Manav Kalyan

Kendra, S. V. Road, Dahisar (East), Mumbai - 400 068.

...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 NIRMAAN CREATIVES PRIVATE LIMITED (hereinafter referred to as the "Company" or "Appellant") having CIN U45200MH2012PTC238975, incorporated under the Companies Act, 1956, having its registered office at 9/C, Shivshakti Complex, Near Manav Kalyan Kendra, S. V. Road, Dahisar (East), Mumbai - 400 068 against the order passed by Registrar of Companies, Mumbai, adjudicating a penalty for violation of Section 12(3)(a) of the Companies Act, 2013 vide Order No. ROC(M)/CMC/RS/ADJ-ORDER/238975/1294 dated 03.03.2021.
2. The order was passed by the ROC on 03.03.2021 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 T36375814) is filed on 19.08.2021. 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, Pune (i.e. 03/03/2020) due to COVID pandemic. Accordingly, order of Hon'ble Supreme Court dated 27.04.2021 "Extension of Limitation" is attached by appellant for delay filing.

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Accordingly, the appeal considered to be filed within the stipulated period of 60 days in terms of provisions of Section 454(5) of the Act.

4. The brief facts of the case are as under:
 - a. The appeal is filed by the Appellants. The appellants have violated the provision of Section 12(3) of the Act, 2013
 - b. The appellant company and its officer have made default for non-compliance of Section 12 of the Companies Act, 2013
 - c. Registrar of Companies, Mumbai has issued show cause notice dated 19.03.2020 to the company and its directors seeking information, however the said letters were returned undelivered by the Postal Authorities. Hence, Registrar of Companies, Mumbai had ordered spot inspection of the registered office of the Company as per records available on MCA portal on 01.11.2020. As per spot inspection report dated 24.11.2020, it is found that the company is not maintaining its registered office at the premises mentioned in the MCA portal. There is no name plate of the Company affixed, at the premises/location of the registered office of the Company.
 - d. The ROC has imposed penalty of Rs. 1,00,000 (Rupees One Lakh) on Company, and Rs. 1,00,000 (Rupees One Lakh) each on Two (2) officers of the Company for the said default vide order dated 03.03.2021
5. In the appeal, the appellant has stated as under:
 - i. The company has received all the earlier notices issued by the Registrar of Companies, Mumbai at the registered office of the appellant company before 19.03.2020 hence the show cause notice stamped as sent on 19.03.2020 was issued by the respondent while the lock-down due to Covid-19 pandemic has already started showing its effect on the city Mumbai or even post that, since no issue date was printed on the said notice. All posts and couriers were either running delayed or stopped completely due to that first and second appellant(s) at their residence by speed post on 05.08.2020 i.e. more than 4 month's delay.
 - ii. The appellants(s) further states that they have replied to the said show cause notice dated 19.03.2020 by mail dated 31.08.2020.
 - iii. The appellant(s) further states that the Name plate of appellant company is not being available at the premises entrance, the same was removed due to major maintenance works being carried out by the

society and further repairs were yet to be done in the registered office premises which are still pending completion since their office it still not opened regularly. However, they had already ensured to organize and install new name plates as soon as it was possible during the completion of certain works. Further, till date none of the communication from anyone has ever returned back due to office not found, hence there cannot be any loss to any related party of entity. The appellant company has adopted a policy of work from home due to fear of the outburst of Second wave of COVID-19.

iv. The Appellant(s) prays that this appeal be allowed, the order passed by the Adjudication officer under an appeal to be set aside.

6. This forum provided hearing to the Appellants through Video Conference on 14.10.2021 at 4.00 p.m. on which dated Mr. Vishal Thaker, Advocate 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 14.10.2021. 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	Defaults made under Section	Penalty to be paid by Company/Director (Officer in default)	Penalty Rs.
1	Section 12(3) of the Act, 2013	Company	7,500/-
		Indira S. Agarwal	5,000/-
		Suresh G. Agarwal	5,000/-
		Total	17,500/-

Total penalty comes to Rs. 17,500/- for violation of Section 12(3)(a) of the Act, 2013.

7. Pursuant to the said directions of this forum, the Appellant Company vide mail dated 19.10.2021 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 14.10.2021, the total penalty of Rs. 17,500/- has been paid for violation of Section 12(3)(a) of the Act, 2013 by the Company and officer in default through challan to MCA. The details of the said Challan are as under: -

Sr. No	Defaulters	Amount (Rs.)	Challan No. / SRN No. & date
1	Company	7,500/-	SRN U99358475 dated 18/10/2021
2	Indira S. Agarwal	5,000/-	SRN U99342123 dated 18/10/2021
3	Suresh G. Agarwal	5,000/-	SRN U99358897 dated 18/10/2021
	Total	80,000/-	

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 28th day of October, 2021.



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

1. Nirmaan Creatives Private Limited
9/C, Shivshakti Complex, Near Manav Kalyan Kendra,
S. V. Road, Dahisar (East), Mumbai - 400 068.
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New Delhi
4. Master Copy
5. Office Copy

"Certified True Copy"

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