



शिघ्र डाक सेवा  
SPEED POST

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BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI  
RD(WR)/Sec. 454(5)/ Enarai Techprint Private Limited/H67656744/2019/3665

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

= 1 MAR 2021

AND

In the matter of ENARAI TECHPRINT PRIVATE LIMITED

having Registered Office at 70/1 Sardesai Building , Shantinagar, Ponda,

Goa-403401

.....Appellant

**Parties Present:**

Shri Thrrippayya Wariath Unnikrishnan, Director of the Appellant Company attended the hearing on behalf of the Appellant Company and officers in default.

**Date of Hearing:** 01.02.2021

### 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 Enarai Techprint Private Limited (hereinafter referred to as the "Company" or "Appellant") having CIN U30004GA1996PTC002127, incorporated under the Companies Act, 1956, having its registered office at 70/1 Sardesai Building, Shantinagar, Ponda, Goa-403401 against the order passed by Registrar of Companies-cum-Official Liquidator (ROC), Goa, adjudicating a penalty for violation of Section 92 & 137 of the Act vide Order No. ROCGDD/AO/92 & 137/2019/16 dated 03.05.2019.
2. The order was passed by the ROC, Goa on 03.05.2019 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.

person. In this case, the appellant company has not mentioned the date of receipt of Penalty order dated 03.05.2019, however appeal is filed on 24.06.2019. Therefore, the appeal was filed on 24.06.2019 is 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 Appellant Company. The appellant company was defaulting in filing of its Annual return and Financial Statements for the Financial Year 31.03.2016 to 31.03.2018.
  - b. The ROC has issued show cause notice dated 13.02.2019 to the company and its officer in default for non-filing of such documents. In response to the said show notice Mr. Thrippayya Wariath Unnikrishnan, Managing Director of the Company vide letter dated 25.02.2019 has informed the ROC, Goa "that the Company was not operational since 2007 all assets are taken over and appropriated by the Economic Development Corporation. There is no hope of any revival of the Company in future. He has further stated that default will be regularized and requested to waive the penalty and an opportunity to be given for hearing in the 2<sup>nd</sup> half of March, 2019 before adjudication."
  - c. The ROC, Goa has provided personal hearing on 29.03.2019, Mr. Thrippayya Wariath Unnikrishnan, Director appeared and has informed that the Company has complied with the provision of Companies Act and filed the Annual Return and Financial Statements up to the financial year ended 31.03.2018.
  - d. The Appellant Company has made its default good filed Annual Return and Financial Statements for the financial year ended 31.03.2016, 31.03.2017 and 31.03.2018 belatedly on 28.03.2019.
  - e. The ROC has imposed a total penalty of Rs.7,36,600/- (Rupees Seven Lakhs Thirty Six Thousand Six Hundred only) on the company and its



Companies Act, 2013		Mr. Thrippayya Vijayan	Rs.1,00,000/-	Rs. 100x146 days =Rs.14,600/-	Rs.1,14,600/-
		Mr. Raman Thrippaya Wariath	Rs.1,00,000/-	Rs. 100x146 days =Rs.14,600/-	Rs.1,14,600/-
Annual Returns u/s 92(4) of the Companies Act, 2013	117 days	On Company	Rs. 50,000/-	Rs.100x117days = Rs.11,700/-	Rs.61,700/-
		Mr. Unnikrishnan Thrippayya Wariath	Rs. 50,000/-	Rs.100x117days = Rs.11,700/-	Rs.61,700/-
		Mr. Thrippayya Vijayan	Rs. 50,000/-	Rs.100x117days = Rs.11,700/-	Rs.61,700/-
		Mr. Raman Thrippaya Wariath	Rs. 50,000/-	Rs.100x117days = Rs.11,700/-	Rs.61,700/-

- No. of days have been calculated from November, 2018 & December, 2018 for Financial Statement and Annual Return respectively till 27.03.2019. The Company has filed its statutory returns belatedly on 28.03.2019

f. The Appellant Company has not yet deposited the said penalty.

5. In the appeal, the appellant has taken the following grounds:

- That the order passed by the Adjudication Officer (AO) is contrary to the facts of the case and against the provisions of law and has been passed with pre-conceived notions and is based on conjectures and surmises and is liable to be quashed.
- As informed to ROC and confirmed in the financials certified the Company had stopped operation and business in the year 2007 due to market conditions. Consequently, as explained above, the Financial Institution EDC, took over the fixed assets of the company in the year 2007, as the assets were given as collateral for loans given to the associate Company, ETPL which culminated in the complete stoppage of business of the activities of the Company. The Company was finding it difficult to get the Accounts Certified since the Auditors were insisting to obtain confirmations from the Financial Institutions. Since the Financial Institution was not ready to provide confirmation unless the company cleared of all the dues, Company was not in a position to convince the Auditors especially on confirmation of balances of

- c. The entire burden of paying the penalties and fines morally fall on Unnikrishnan TW, as the sole director who was managing the Company since inception, who is in dire constraints having to work with other companies to meet the ends well after his retirement age. And, he is also called up to settle the remaining loan of the Associate Company as its sole guarantor, in addition to the Company, whose assets are already taken over as collateral.
6. This forum provided virtual hearing to the Appellants on 01.02.2020 at 12.15 p.m. on which date Shri Thrippayya Wariath Unnikrishnan, Director of the Appellant Company appeared for hearing. At the time of hearing it is noticed from the Appeal that the same is filed for Company only. The officer/directors of the Company who are in default have not joined the said Appeal. Therefore, the Directors were directed to file an Affidavit for joining the Appeal. Further, I have carefully considered the impugned order, all the submissions made by the Appellant in the appeal and oral submissions made by the Director of the company during the hearing. Accordingly, the appeal is allowed and it was directed to the Appellant Company & officers in default that revised penalty to be paid as under:

Sr. No.	Defaults made for Non-filing documents	Penalty to be paid by Company/Director (officer in default)	Revised Penalty Rs.	Financial Year
1.	Financial Statement u/s 137(1) of the Companies Act, 2013	On Company	14,600/-	2017-18
		Mr. Unnikrishnan Thrippayya Wariath	11,460/-	2017-18
		Mr. Thrippayya Vijayan	11,460/-	2017-18
		Mr. Raman Thrippaya Wariath	11,460/-	2017-18
2.	Annual Returns u/s 92(4) of the Companies Act, 2013	On Company	6,170/-	2017-18
		Mr. Unnikrishnan Thrippayya Wariath	6,170/-	2017-18
		Mr. Thrippayya Vijayan	6,170/-	2017-18
		Mr. Raman Thrippaya	6,170/-	2017-18

dated 12.02.2021 alongwith the copies of the Affidavit from all the defaulting officers for joining the said Appeal and he has also forwarded original copy of the Affidavit by post which was received in this office on 19.02.2021. Further, vide email dated 16.02.2021 he has forwarded the copies of challan /payment receipt for penalties paid to the MCA. The details of the said challans are as under:-

Sr. No	Defaulters	Amount (Rs.)	Financial Year	Challan No. / SRN No. & date
1	Company U/s. 137 of the Act, 2013	14,600/-	2017-18	SRN: U80559685 Dated 15.02.2021
2	Mr. Unnikrishnan Thrippayya Wariath, U/s. 137 of the Act, 2013	11,460/-	2017-18	SRN: U80560964 Dated 15.02.2021
3	Mr. Thrippayya Vijayan, U/s. 137 of the Act, 2013	11,460/-	2017-18	SRN: U80560972 Dated 15.02.2021
4	Mr. Raman Thrippaya Wariath, U/s. 137 of the Act, 2013	11,460/-	2017-18	SRN: U80561145 Dated 15.02.2021
5	Company U/s. 92 of the Act, 2013	6,170/-	2017-18	SRN: U80557689 Dated 15.02.2021
6	Mr. Unnikrishnan Thrippayya Wariath, U/s. 92 of the Act, 2013	6,170/-	2017-18	SRN: U80558562 Dated 15.02.2021
7	Mr. Thrippayya Vijayan, U/s. 92 of the Act, 2013	6,170/-	2017-18	SRN: U80559677 Dated 15.02.2021
8	Mr. Raman Thrippaya Wariath, U/s. 92 of the Act, 2013	6,170/-	2017-18	SRN: U80560162 Dated 15.02.2021

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

Signed and sealed on <sup>th</sup> 26 day of February, 2021.



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

To,