

शिघ्र डाक सेवा  
SPEED POST

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12 FEB 2021

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec. 454(5)/Karma Industries Limited /R36158947/2019 / 9391

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

AND

In the matter of KARMA INDUSTRIES LIMITED

having Registered Office at Raj Arcade, H-Wing, 1<sup>st</sup> Floor, Off. No.131, Mahavir  
Nagar, Opp. Kala Vihar Sports Club, Kandivali (W) , Mumbai -400 067

.....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 Karma Industries Limited (hereinafter referred to as the "Company" or "Appellant") having CIN L51900MH1977PLC0019837, incorporated under the Companies Act, 1956, having its registered office at Raj Arcade, H-Wing, 1<sup>st</sup> Floor, Off. No.131, Mahavir Nagar, Opp. Kala Vihar Sports Club, Kandivali (W) , Mumbai -400 067 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 Companies Act 2013 vide Order No. ROC(M)/CMC/RS/ADJ-Order/019837/3780 dated 29/01/2020.
2. The order was passed by the ROC on 29.01.2020 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 (SKN R36158947) is filed on 27.03.2020. As per the 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 not mentioned in their appeal about the date of receipt of order. However, in the e-form ADJ the date of issuing certified copy of the penalty order is mentioned as 29.01.2020 and the appeal is filed on 27.03.2020. The appeal was filed on 27.03.2020 and thus 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 Appellants. The appellants have violated the provision of Section 12(1) r/w Section 12(4) of the Act, 2013.
  - b. The appellant company and its officer have made default for non-compliant of Section 12 of the Companies Act, 2013.
  - c. The notice issued by IEPF Authority, Ministry of Corporate Affairs, was returned back undelivered by the Postal Authority thereby violating the provision of Section 12(3) (a) punishable under provision of Section 12(8) of the Companies Act, 2013. The Company and every officer have violated the said provisions. Therefore, the Company and every officers are liable for penalty proceedings, for aforesaid violation. Accordingly, the show cause notice under Section 454(5) for violation of Section 12 of the Companies Act, 2013, was issued to the Company and its directors/officers as per address/s available on the MCA portal.
  - d. No response was received by the ROC to the SCN from the Company and its directors/officers in default.
  - e. The ROC has imposed penalty of Rs.1,00,000/- (Rupees One Lakh only) on Company and Rs.1,00,000/- each on Four (4) officers of the Company for the said default vide dated 29/01/2020.

5. In the appeal, the appellant has stated as under:
- i. That the Learned Registrar of Companies and Adjudication officer should have considered the fact that Karma Industries Limited (Appellant Company) had the registered office capable of receiving and acknowledging all communication and notice as may be addressed to its since its incorporation. However, on 12.01.2015 the State Bank of India had taken over the symbolic possession of the registered office of Karma Industries Limited by issuing the notice dated 06.06.2013.
  - ii. The Appellant had suffered from severe financial loss and burden and hence could not repay the dues to the State Bank of India but during such crisis period had paid all the other dues and had never intended to defraud with the creditors, investors and shareholders which is the admitted fact itself in the impugned order.
  - iii. That the learned Registrar of Companies and Adjudication officer should have considered the fact that the Company is suffering from financial losses and is not in a position to engage employees in order to run the company efficiently, because of which the notice/envelope which was sent to the Company at its registered office was returned undelivered by the postal authorities.
  - iv. That the Appellant had come to conclusion of moving the winding-up of the Company procedure long time back but could not do so due to scarcity of funds.
  - v. The Appellants prayed that the impugned order passed against the Appellants in breach of the provision of law and against scrutiny of law and canons of justice is to be quashed and set-aside or pass such other relief as deems fit in the interest of justice.

6. In the above appeal, the notice of hearing was issued to the Appellant Company on 07.12.2020 by speed post as well as by email and fixed the hearing on 23.12.2020. The notice sent by speed post have been received back undelivered from the postal authority with remark "Left". However, notice sent by mail has been delivered to the Appellants mail address, but none appeared from Appellants before this forum at the time of hearing. Further, this office neither received any written submission nor receive any reply by mail in the matter from the Appellants.
7. In view of the above, I am of the opinion that the Appellants is not interested to persue the Appeal filed before this forum, hence the Appeal is rejected. The Registrar of Companies, Mumbai is directed to take necessary action as per provisions of the Act.
8. A copy of this order shall be published on the website of the Ministry of Corporate Affairs as per Rules.
9. No order to cost.

Signed and sealed on 10<sup>th</sup> day of February, 2021



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

To,

1. Karma Industries Limited,  
Raj Arcade, H-Wing, 1<sup>st</sup> Floor,  
Off. No.131, Mahavir Nagar,  
Opp.Kala Vihar Sports Club,  
Kandivali (W),  
Mumbai -400 067
2. Registrar of Companies, Mumbai
3. Master copy
4. Office copy

"Certified True Copy"

*[Signature]*

REGIONAL DIRECTOR  
(M.P. SHAH)  
REGIONAL DIRECTOR (W.R.)  
कार्पोरेट अफेयर्स, मुंबई-२  
Ministry of Corporate Affairs, Mumbai-2