

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec. 454(5)/Bridgetown Hospitality Private Limited /R30518237/2020 /3210

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

29 JAN 2021

AND

In the matter of **BRIDGETOWN HOSPITALITY PRIVATE LIMITED**

having Registered Office at Unit No. 004, Upper Ground Floor, Kudale's  
Terrace Tower, Socorro Village, Bardez Porvorim, North Goa, Goa- 403521

.....Appellant

**Parties Present:**

MR. Shashank Ghaises, Practicing Company Secretary attended the hearing through Video Conference on behalf of the Appellant Company and officer in default.

**Date of Hearing: 23.12.2020**

**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 Bridgetown Hospitality Private Limited (hereinafter referred to as the "Company" or "Appellant") having CIN U55101GA2013PTC007256, incorporated under the Companies Act, 1956, having its registered office at Unit No. 004, Upper Ground Floor, Kudale's Terrace Tower, Socorro Village, Bardez Porvorim, North Goa, Goa- 403521, against the order passed by Registrar of Companies-cum-Official Liquidator (ROC), Goa, adjudicating a penalty for violation of Section 137(3) of the Act vide Order No. ROCGDD/AO/137/2019114 dated 19/11/2019.
2. The order was passed by the ROC on 19.11.2019 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 on Form ADJ (SRN R30518237) is filed on 17/01/2020. 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 not mentioned the date of receipt of order dated 19.11.2019 in the appeal, however, the appeal is filed on 17.01.2020. Therefore, the appeal was filed on 17.01.2020 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:
- The appeal is filed by the Appellant Company. The appellant company was defaulting in filing of its financial Statements for the Financial Year ended 31.03.2015
  - The ROC has issued show cause notice dated 19.02.2016 to the company and its directors namely Mr. Mr. Jeffy Pattacheroal Kurian, Director (DIN: 06522643) and Ms. Archana Jeffy Kurian, Director (DIN: 06584865), calling them to show cause for non-filing of such documents.
  - The Annual Returns and Financial Statement for Year 2017-18 were filed on 30.08.2016 with additional fees to regularize the default.
  - The ROC fixed personal hearing on 24.09.2019 to adjudicate the default under Section 137(3) of the Companies Act, 2013. The authorized representative of the defaulters attended the hearing and explained the reason of defaults.
  - The ROC has imposed a total penalty of Rs.5,64,800/- (Rupees Five Lakhs Sixty Four Thousand Eight Hundred only) on the company and its Director as detailed herein 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 | 304 days              | On Company                          | Rs. 1000x304 days =   | Rs.3,04,000/-                      | Rs.3,04,000/-  |
|   |                       | Jeffy Pattacherial Kurian           | Rs.1,00,000/-         | Rs. 100x304 days =<br>Rs. 30,400/- | Rs. 1,30,400/- |
|   |                       | Ms. Archana JeffyKurian             | Rs.1,00,000/-         | Rs. 100x304days =<br>Rs. 30,400/-  | Rs.1,30,400/-  |

- No. of days have been calculated from November, 2015 to 29.08.2016 for Financial Statement respectively till the date default was made good.

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

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

- a. That Mrs. Archana Jeffy , Director, is not the Officer in Default for filing of Annual filing forms with ROC, Goa as the management had passed at its board meeting held on 02.09.2015 authorizing Mr. Jeffy Pattacherial Kurian , Director, to file the requisite Annual Filing e-form for the F.Y. 2014-2015 with ROC, Goa and same had been consented by Mr. Jeffy Pattacherial Kurian.
- b. The Company being a small Company as defined under Section 2 (85) of the Companies Act, 2013, the relief in penalty to be charged for any default under section 137 of the Companies Act, 2013 was not granted while fixing the Penalty by the Hon'ble ROC, Goa.
- c. The appellants have made prayers that a lenient view be taken and the Appellant being bona-fide and no malafide intention in delay in filing form with ROC, Goa and sought following relief:

1. Mrs Archana Jeffy Kurian, Director, to be relieved from charge of penalty, being not the officer in default for the above mentioned default under Companies Act, 2013.
2. Being a small Company, to grant relief under section 446B of the Companies Act, 2013 to charge the Penalty on Company & the Officer in default ( Mr. Jeffy Pattacherial Kurian), with half of the Penalty imposed by the ROC, Goa.
3. To charge with the Penalty for the contravention under section 137 of the Companies Act, 2013, with lesser penalty considering the initial stage of business growth of the Company and on just and equitable ground, as Hon'ble Regional Director, Mumbai may deems fit.

6. This forum provided hearing to the Appellants through Video Conference on 23.12.2020 at 12.00 p.m. on which date CS Shashank Gaisas, Partner of AVS & Associates as authorized representative appeared on behalf of the Appellant Company alongwith Mr. Jeffy Kuria, Director of the Company. 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 23.12.2020 Accordingly, it was directed to the representative of the Appellant Company the that revised penalty to be paid as under as under, latest by 08.01.2021

| Sr. No. | Defaults made for Non-filing documents                    | Penalty to be paid by Company/Director (officer in default) | Penalty Rs. | Financial Year |
|---------|---|---|-------------|----------------|
| 1.      | Financial Statement u/s 137(1) of the Companies Act, 2013 | Company   | 30,400/-    | 2014-15        |
|         |   | Jeffy Pattacherial Kurian                                   | 13,040/-    | 2014-15        |
|         |   | Ms. Archana JeffyKurian                                     | 13,040/-    | 2014-15        |
|         |   | Total :-  | 56,480/-    |                |

Total penalty comes to Rs.56,480/-for the default of Non-filing Financial Statement and Annual Return F Y 2017-18

7. Pursuant to the said directions of this forum, the authorized representative vide its letter date submitted that copies of challan /payment receipt for penalties paid to the MCA. He has informed that as directed in virtual hearing which was held on 23.12.2020, the total penalty of Rs.56,480/- has been paid for default under section 137of the Companies Act, 2013 by the Company & officer in default through challan to MCA. The details of the said challan are as under:-

| Sr. No | Defaulters                        | Amount (Rs.) | Financial Year | Challan No. / SRN No. & date       |
|--------|-----------------------------------|--------------|----------------|------------------------------------|
| 1      | Company U/s. 137 of the Act, 2013 | 30,400/-     | 2014-15        | SRN: U78158912<br>Dated 06.01.2021 |
| 2      | Mr. Jeffy Pattacherial Kurian     | 13,040/-     | 2014-15        | SRN: U78159043<br>Dated 06.01.2021 |
| 3      | Ms. Archana JeffyKurian           | 13,040       | 2014-15        | SRN: U78159480<br>Dated 06.01.2021 |
|        | Total :-                          | 56,480/-     |                |                                    |

8. In view of the above and penalty having been paid by the Appellant Company and officer in default, the ROC, Goa is directed to take necessary action for withdrawal of the case filed, if any, for default under section 137(3) of the Companies Act, before the Hon'ble CJM Court, Panaji, Goa, numbered as L.C. No. 48/2016/A. According, the Appeal is disposed off.

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 <sup>fu</sup> 28 day of January, 2021.



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

To,

1. Bridgetown Hospitality Private Limited  
Unit No. 004, Upper Ground Floor,  
Kudale's Terrace Tower, Socorro Village,  
Bardez Porvorim, North Goa, Goa- 403521
2. The Registrar of Companies, Goa.
3. Master Copy
4. Office Copy.

"Certified True Copy"

*Manoj S. Bang*

मनोज एस. बंग  
Manoj S. Bang  
उप निदेशक / Deputy Director  
कार्य, प्रादेशिक निदेशक (प.क्षे.)  
O/o. Regional Director (W.R.)  
कारपोरेट कार्य मंत्रालय, मुंबई-२  
Ministry of Corporate Affairs, Mumbai-2