

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec. 454(5)/Rahi Shipping (India) Pvt. Ltd. /H81900623/2019/ 2881

12 JAN 2021

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

AND

In the matter of RAHI SHIPPING (INDIA) PRIVATE LIMITED

having Registered Office at G-37, Ground Floor Sapana Terrace, Swatantra Path,
Vasco Da Gama, South Goa- 403 802Appellant

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 RAHI SHIPPING (INDIA) PRIVATE LIMITED (hereinafter referred to as the "Company" or "Appellant") - having CIN U35100GA2010PTC006493, incorporated under the Companies Act, 1956, having its registered office at G-37, Ground Floor Sapana Terrace, Swatantra Path, Vasco Da Gama, South Goa- 403 802 India, against the order passed by Registrar of Companies-cum-Official Liquidator (ROC), Goa, adjudicating a penalty for violation of Section 92(5) and Section 137(3) of the Act vide Order No. ROCGDD/AO/92&137/2019/68 dated 03/06/2019.
2. The order was passed by the ROC on 03/06/2019 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 H81900623) is filed on 09/08/2019. 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 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 17.06.2019 and the appeal is filed on 09.08.2019. The appeal was filed on 09.08.2019 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 Appellant Company only whereas the penalty has been imposed by the ROC, Goa on Company and one officer in default namely Shri Sanjay Ramakant Kudapkar (DIN 03185955). Since Shri Ramakant Rama Kudapkar (DIN: 03170713) is disqualified under Section 164 (1)(a) of the Companies Act, 2013 for a period from 01.11.2016 till 31.10.2021, hence, the Roc has not imposed any penalty on the said Director.
- b. The appellant company and its officer have made default in filing of Annual Returns and Balance Sheets for the FY 2017-18.
- c. The ROC has issued show cause notice under Section 92(5) and Section 137(3) of the Act vide notice dated 14.02.2019 to the company and its directors namely Shri Sanjay Ramakant Kudapkar (DIN:03185955) and Shri Ramakant Rama Kudapkar (DIN: 03170713) calling them to show cause for non-filing of such documents.
- d. No response was received by the ROC to the SCN dated 14.02.2019 from the Company and its director.
- e. The company has finally filed the due Annual Returns and Balance Sheets for the Financial Year 2017-18 on 18.06.2019.
- f. The ROC has imposed a total penalty of Rs.4,72,400/- (Rupees Four Lacs Seventy Two Thousand Four Hundred Only) on the company & its directors, detailed herein below:

Document Required to be filed	No. of Days of Default*	Penalty imposed on the Company/Director	First Default	Default Continues (In Rs.)	Total (In Rs.)
Financial Statement u/s137(1) of the Companies Act,2013	214 days	On Company	Rs.1000X214days =	Rs.2,14,000/-	Rs.2,14,000/-
		On Shri Sanjay Ramakant Kudapkar	Rs.1,00,000/-	Rs.100X214= Rs.11,100	1,21,400/-

Annual Returns u/s. 92(4) of the Companies Act, 2013.	185 days	On Company	Rs.50,000/-	Rs.100X185days =Rs.18,500/-	Rs.68,500/-
		On Shri Sanjay Ramakant Kudapkar .	Rs.50,000/-	Rs.100X185days =Rs.18,500/-	Rs.68,500/-

*No. of days have been calculated from November 2018 & December, 2018 for Financial Statement and Annual Return respectively till date.

- g. The Appellant Company has not yet deposited the said penalty.
5. In the appeal, the appellant has stated that the Company has complied by filing necessary statutory returns with additional fees for the FY 2017-18. Further, the Appellant Company pray for set-aside the order dated 03.06.2019 of Adjudicating Officer, ROC, Goa.
6. In the above appeal the notice of hearing was issued from to time but the Appellant Company has not given any response to the said notice, therefore, final notice of hearing was issued to the Appellant Company on 07.12.2020 (being last chance) by speed post as well as by email and fixed the hearing on 21.12.2020. In response to the said notice the Appellant Company has informed by email dated 08.12.2020 that the Appellant Company has already filed an application pursuant for withdrawal of Appeal.
7. The Appellant Company has filed the above said application for withdrawal of Appeal in the e-form RD-1 (in other option) vide SRN: R 49258122 dated 11.08.2020 and stated therein that the present application is made for withdrawal of Appeal filed before the Regional Director, WR, Mumbai in terms of General Circular No.12/202, file No. 02/01/2020-CL-V dated 30th March, 2020 of the Ministry of Corporate Affairs. (Ref. Para 6 (v) of the Companies Fresh start Scheme, 2020 and requested to consider the application and issue an order confirming the withdrawal of Appeal to enable the appellant to file an application with the ROC, Goa for issue of immunity certificate pursuant to Companies Fresh start Scheme, 2020.

8. I have carefully considered the request made by the Appellant Company for withdrawal of an Appeal and same is hereby allowed. The Appeal is accordingly disposed of as withdrawn.
9. A copy of this order shall be published on the website of the Ministry of Corporate Affairs as per Rules.
10. No order to cost.

Signed and sealed on 12th day of January, 2021



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

To,

✓ Rahi Shipping (India) Private Limited,
G-37, Ground Floor Sapana Terrace,
Swatantra Path, Vasco Da Gama,
South Goa- 403 802

2. Registrar of Companies cum Official Liquidator,
Goa.

3. Master copy

4. Office copy

"Certified True Copy"

M.P. Shah
REGIONAL DIRECTOR
WESTERN REGION, MUMBAI
MINISTRY OF CORPORATE AFFAIRS, MUMBAI-2