

शिघ्र डाक से
SPEED POST

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec. 454(5)/Rashmi Hospitality Services Private Limited/R35070390/2020

In the matter of Companies Act, 2013: Section 454(5) | 3206 29 JAN 2021

AND

In the matter of RASHMI HOSPITALITY SERVICES PRIVATE LIMITED

having Registered Office at K-6 Kaka Complex, Near Dukes Factory, W T Patil

Marg, Chembur , Mumbai -4000 088

.....Appellant

Parties Present:

Neena Deshpande, Practicing Company Secretary, authorized representative 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 Rashmi Hospitality Services Private Limited (hereinafter referred to as the "Company" or "Appellant") having CIN U55100MH2003PTC140632, incorporated under the Companies Act, 1956, having its registered office at K-6 Kaka Complex, Near Dukes Factory, W T Patil Marg, Chembur , Mumbai - 4000 088, Goa- 403521, 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 Act,2013 vide Order No. ROC(M)CMC/ADJ-Order/035703/3493 dated 14/01/2020.
2. The order was passed by the ROC on 14.01.2020 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 (SRN R35070390) is filed on 09/03/2020. 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 14.01.2020 in the appeal, however, the appeal is filed on 09.03.2020. Therefore, the appeal was filed on 09.03 .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:
 - a. The appeal is filed by the Appellant Company and its officers in defaults. The appellant company was violated of Section 12(1) r/w Section 12(4) of the Act, 2013.
 - b. The ROC has issued show cause notice dated 18.12.2019 to the company and its directors calling them to show cause for non-compliant of Section 12 of the Companies Act, 2013. In response to the said Show cause Notice, the representative of the Company Ms. Neena Deshpande, Practicing Company Secretary, in her reply dated 06.01.2020 has accepted that, the Company was non-compliant with Section 12 of the Companies Act, 2013 as the Company had not mentioned address of its registered office, CIN, alongwith phone number, fax number on its bill heads between May,2018 to December, 2018 .
 - c. The Roc has mentioned at para No. 18 in his report dated 21.12.2020 that the Company states that, final bills are issued in compliance with Section 12 of the Companies Act, 2013.
 - d. The ROC fixed personal hearing on 06.01.2020 to adjudicate the default under Section 12 of the Companies Act, 2013. The authorized representative of the defaulters attended the hearing and submitted written representation against the notice issued to the Company.
 - e. The ROC has imposed penalty of Rs.1,00,000/- (Rupees One Lakh only) each on Company and 2 Directors in defaults.
 - f. The Appellant Company has not yet deposited the said penalty.
5. In the appeal, the appellant has taken the following grounds:
 - a. That non-compliance of the Section 12(4) of the Act by the Company was due to inadvertence and neither the Company nor its Director had any malicious intention for not mentioning the Registered Office address on its billheads sent to IICA, Manesar.

- b. The Company and its Officers were under the honest belief that it was appropriate to mention the local address of the hotel on the bills issued in Haryana and the Registered Office address located in Mumbai was not required to be printed.
- c. As per Companies (Adjudication of Penalties) Amendment Rules, 2019 while adjudging the quantum of penalty, the Adjudication Officer shall have due regards to various factors including (c) injury to the public interest, (d) nature of default and (g) amount of loss caused to an investor or group of investors or group of investors or creditors as a result of the default. The violation of Section 12(4) of the Act has not caused any injury to the public interest, not any loss to the investor or creditors. The nature of default is not causing any harm to the parties involved.
- d. Moreover, the Adjudicating officer has also stated in his order that it is difficult to quantify the unfair advantage made by the noticee or the loss caused to the investors in a default of this nature.
- e. The Appellant Company prays that the penalty imposed by the Adjudicating Officer in his Order u/s 454 be reduced and to pass such order as it may deem fit and proper in circumstances of the case.
6. This forum provided hearing to the Appellants through Video Conference on 23.12.2020 at 12.45 p.m. on which date Ms. Neena Deshpande, Practicing Company Secretary 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 23.12.2020 Accordingly, the appeal is allowed and 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 under Section	Penalty to be paid by Company/Director (officer in default)	Penalty Rs.
1.	Section 12(1) r/w Section 12(4) of the Act, 2013	Company	75,000/-
		Mr. Sudhakar Shetty	75,000/-
		Mr. Surendra Shetty	75,000/-
		Total :-	2,25,000/-

Total penalty comes to Rs.2,25,000/-for violation of Section 12(1) r/w Section 12(4) of the Act, 2013

7. Pursuant to the said directions of this forum, the Appellant Company vide its letter dated 18.01.2021 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 23.12.2020, the total penalty of Rs.2,25,000/- has been paid for Section 12(4) of the 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.)	Challan No. / SRN No. & date
1	Company	75,000/-	SRN: U78284759 Dated 08.01.2021
2	Mr. Sudhakar Shetty	75,000/-	SRN: U78286028 Dated 08.01.2021
3	Mr. Surendra Shetty	75,000/-	SRN: U78291754 Dated 08.01.2021
	Total :-	2,25,000/-	

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 January, 2021.



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

1. Rashmi Hospitality Services Private Limited
K-6 Kaka Complex, Near Dukes Factory,
W T Patil Marg, Chembur,
Mumbai -4000 088

2. The Registrar of Companies, Goa.

3. Master Copy

4. Office Copy.

"Certified True Copy"
M.S. Bang
मनीज 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