

Application No. RD/ER/454/28/23/Appeal

**BEFORE THE REGIONAL DIRECTOR, EASTERN REGION
MINISTRY OF CORPORATE AFFAIRS, KOLKATA.**

IN THE MATTER OF

THE COMPANIES ACT, 2013

-AND-

IN THE MATTER OF

M/S. MAHEEP MARKETING PVT LTD
PREMISES NO. 69A, PRINCE BAKTIAR SHAH ROAD
P.O-TOLLYGUNGE, KOLKATA WB 700033 INDIA

-AND-

IN THE MATTER OF

Appeal under section 454 of The Companies Act, 2013
against the penalty order dated 31/07/2023 of
Registrar of Companies, West Bengal passed for
violating the provisions of section 137 of the Companies
Act, 2013.

-AND-

IN THE MATTER OF

1. M/S. MAHEEP MARKETING PVT LTD
PREMISES NO. 69A, PRINCE BAKTIAR SHAH ROAD
P.O-TOLLYGUNGE, KOLKATA WB 700033 INDIA
2. HEMANT SANGHVI CHIMANLAL (Director)
16, BALKRISHNA NIWAS, L.N. ROAD, OPP. MATUNGA
GYM KHANE, MATUNGA EAST, MUMBAI 400019, INDIA

In the matter of M/s. Maheep Marketing Pvt Ltd



3. GAJENDRA KRISHNA SANDIM (Director)
440, GANESH WADISHIRGAON, RATNAGIRI, RATNAGIRI
415629, MAHARASHTRA, INDIA

..... APPELLANTS

Date of Hearing : 22/02/2024

Present Mohit Surtani, Practicing Company Secretary
and Authorised Representative

Appellants

ORDER

1. The present appeal under section 454 of the Companies Act, 2013 read with the provisions of the Companies (Adjudication of Penalties) Rules, 2014 was filed vide Form ADJ bearing SRN no. F67109348 dated 11/10/2023 by the aforesaid appellants against the penalty order dated 31.07.2023 under section 137 of the Adjudicating Authority i.e. Registrar of Companies, West Bengal communicated to the appellants vide letter no. ROC/ADJ/2023/0065456/4018M-4018P dated 31/07/2023
2. As per the aforesaid order, the office of the Registrar of Companies, West Bengal had issued Adjudication notice for violation of section 137 of the Act vide no. LEGAL/ADJ/2023/065456 dated 30.01.2023 to the company and its officers. That in this regard, a reply dated 03/05/2023

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was received by the ROC, West Bengal from the Company and its officers for aforesaid Adjudication notice which was not found satisfactory by the Adjudicating Authority.

3. Considering the above facts and circumstances of the case, the Adjudicating Authority had imposed Penalty as under for violation of section 137 of the Act: -

Penalty imposed U/S 137(3) of the Companies Act, 2013 against the defaulters (First Default= Rs. 10,000. Continuing Default= Rs. 100/day. Maximum Rs. 2,00,000 in case of Company and Rs. 50,000 in case of Officer- in- default and any other person)			Total (Rs.)
COMPANY	HEMANT SANGHVI CHIMANLAL DIN: 00161907	GAJENDRA KRISHNA SANDIM DIN: 03347208	
10,000 + (220 days*100) = 22,000 Total= Rs. 32,000/- Maximum= 2,00,000/- [Already paid additional fees of Rs. 22,100/- vide SRN: F19317171] NetPenalty: Rs. 32,000 – 22,100 = Rs. 9,900/-	10,000 + 220 days*100) = 22,000 Total= Rs. 32,000/- Maximum= 50,000/-	10,000 + (220 days*100) = 22,000 Total= Rs. 32,000/- Maximum= 50,000/-	73,900/-

4. Having considered the facts and circumstances of the case and after

taking into account the factors above, ROC, West Bengal imposed a penalty of Rs. 9900/- (Rupee nine thousands nine hundred Only) on the concerned Company and Rs. 32,000/- (Rupees thirty two Thousand Only) each of the 2 Directors in default for 220 days under Section 137 of the Act, **in Total Rs. 73,900/-** (Rupees seventy three thousand nine hundred Only) (i.e., Rs. 9900 for Company and Rs. 32000/- on each of the two Directors) for failure to make compliance of the Act u/s. 137 of the Act.

5. The appeal was heard on 22/02/2024 Authorised Representative was asked to make submission regarding any infirmity in the order of Registrar of Companies. The Authorised Representative had submitted that *“as per the Companies Amendment Act, 2020, Section 454(3) of the Companies Act, 2013 has been inserted by way of the amendment on 29.09.2020 and the same is given below:*

“Provided that in case the default relates to non-compliance of sub-section (4) of section 92 or sub-section (1) or sub-section (2) of section 137 and such default has been rectified either prior to, or within thirty days of, the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and all proceedings under this section in respect of such default shall be deemed to be concluded.”

The company has filed its Balance Sheet for the F.Y 2020-21 by way of filing e-form AOC 4 XBRL vide SRN F19317171.

In view of the above-mentioned amendment under the Companies Act, 2013 it is clearly mentioned that if the filing has been done, then there should not be any proceeding or penalty imposed on the Company”.

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6. Based on the above submissions made by the Authorised Representative of the appellants during the hearing and in terms of the provision of the Act there is merit in the submissions and as the Company has already filed Financial Statement for the FY 2020-21 vide SRN - F19317171 on 06.08.2022 i.e prior to initiation of adjudication proceedings and passing of Adjudication order by Registrar of Companies, West Bengal. The Registrar of Companies, West Bengal who is present during the hearing also admitted filing of Financials for such years. The undersigned by virtue of the power vested in Regional Director under section 454(7) of the Companies Act, 2013 read with the Companies (Adjudication of Penalties) rules, 2014 set aside the order of the Registrar of Companies, West Bengal dated 31/07/2023 and allow the appeal.

7. Hence the instant Appeal stands disposed of accordingly.



(P.Sridhar)

REGIONAL DIRECTOR (ER)

Signed this the 10th day of July, 2024.

Copy to:-

✓ M/S. MAHEEP MARKETING PVT LTD
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415629, MAHARASHTRA, INDIA

4. The Registrar of Companies,
West Bengal,..... for information in respect of his letter no.
ROC/ADJ/2023/065456/10392 dated 04/01/2024

5. The Officer in Charge, E-Gov. Cell, Ministry of Corporate Affairs, 5th Floor, A
wing Shastri Bhavan, New Delhi-110001,-with a request to upload this Order
on the website of the Ministry.

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