



BEFORE THE REGIONAL DIRECTOR, WESTERN REGION

MINISTRY OF CORPORATE AFFAIRS, MUMBAI

प्रादेशिक निदेशक, पश्चिम क्षेत्र, कारपोरेट कार्य मंत्रालय, मुंबई के समक्ष

सं. - प्रादे. निदे. (प.क्षे.)/454(5)/Realtime Finlease/92 & 137/F93520104/2023-24/ / 5048

21 JUN 2024

APPEAL UNDER 454(5) OF COMPANIES ACT, 2013 AGAINST ORDER PASSED FOR OFFENCES COMMITTED UNDER SECTION 92 & SECTION 137 OF THE COMPANIES ACT, 2013.

In the matter of REALTIME FINLEASE LIMITED & ORS.

- |    |                             |             |
|----|-----------------------------|-------------|
| 1. | Realtime Finlease Limited   | - Company   |
| 2. | Dhanpatraj Phoolchand Mehta | - Director. |
| 3. | Kushal Phoolchand Mehta     | - Director. |
| 4. | Dilipkumar Phollchand Mehta | - Director. |

...Appellants

Through: Milind Nirkhe, Practicing Company Secretary and Dhanpatraj P. Mehta, Director of the subject company appeared on behalf of Appellants as their authorized representative.

HON'BLE REGIONAL DIRECTOR (WESTERN REGION)

ORDER

Appeal under sub-Section (5) of Section 454 of the Companies Act, 2013 (Act) r/w the Companies (Adjudication of Penalties) Rules, 2014 (Rules) have been filed by Realtime Finlease Limited (Company) having CIN L65990MH1991PLC062703 and, its Directors, against Order No. ROC(M)/RFL/ADJ-ORDER/653 & Order No.ROC(M)/RFL/ADJ-ORDER/649, both dated 12/01/2024 respectively (ROC Orders) of Registrar of Companies, Mumbai for violating provisions of Section 92 & Section 137 of the Act.

2. The appeal lies within the jurisdiction of the Regional Director, Western Region, Ministry of Corporate Affairs, Government of India.

3. The Registrar of Companies, Mumbai (RoC Mumbai) vide Adjudication Orders, both dated 12/01/2024 held the Company and its Directors, who have defaulted liable for penalty under Section 92(5) of the Act from 30/11/2019 to 25/10/2020 for not filing Annual Return and for penalty under Section 137(3) of the Act from 31/10/2019 to 25/10/2020 for not filing Financial Statements, within the time prescribed from the date of Annual General Meeting in pursuance of Section 96 of the Act as under:

*[Signature]*

A] Penalty imposed under Section 92(5) of the Act for F.Y. 2018-19

No. of days default	Penalty imposed on Company / KMP	First default (In Rs.)	Default continues	Total penalty levied (In Rs.)	Maximum penalty (In Rs.)
331 days	Realtime Firlease Limited	50,000/-	331X100 = 33,100/-	83,100/-	5,00,000/-
	Dhanpatraj Phoolchand Mehta	50,000/-	331X100 = 33,100/-	83,100/-	5,00,000/-
	Kushal Phoolchand Mehta	50,000/-	331X100 = 33,100/-	83,100/-	5,00,000/-
	Dilipkumar Phoolchand Mehta	50,000/-	331X100 = 33,100/-	83,100/-	5,00,000/-
TOTAL				3,32,400/-	20,00,000/-

B] Penalty imposed under Section 137(3) of the Act for F.Y. 2018-19

No. of days default	Penalty imposed on Company / KMP	First default (In Rs.)	Default continues	Total penalty levied (In Rs.)	Maximum penalty (In Rs.)
361 days	Realtime Firlease Limited	N.A.	361X1,000 = 3,61,000/-	3,61,000/-	10,00,000/-
	Dhanpatraj Phoolchand Mehta	1,00,000/-	361X100 = 36,100/-	1,36,100/-	5,00,000/-
	Kushal Phoolchand Mehta	1,00,000/-	361X100 = 36,100/-	1,36,100/-	5,00,000/-
	Dilipkumar Phoolchand Mehta	1,00,000/-	361X100 = 36,100/-	1,36,100/-	5,00,000/-
TOTAL				7,69,300/-	25,00,000/-

4. Appellants have filed Form-ADJ vide SRN F93520104 dt. 18/03/2024. As per provisions of sub-Section (6) of Section 454, every appeal under sub-section (5) shall be filed within sixty (60) days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person. On examination of the application/appeal, it is seen that the said application/appeal has been filed within 60 days from the date of passing of the adjudication order.

5. Grounds of Appeal & Relief sought:

- All three directors of the company suffered from major health problems.
- During the last Amnesty Scheme (CFSS 2020), the Company's Company Secretary who was entrusted with the job of filing the pending documents did not complete the job with no communication to that extent.
- The Adjudicating Officer passed these orders after a lapse of around 4 years. The Appellants state that they could have been given one more opportunity to explain their case properly as to why no penalty should have been imposed.
- To set aside the impugned orders and remand back the case to the Adjudicating Officer for affording them one more opportunity to explain the case.

*[Signature]*

6. The matter was posted for hearing as per Section 454(5) r/w Section 454(7) of the Act on 13/06/2024. Milind Nirkhe, Practicing Company Secretary and Dhanpatraj P. Mehta, Director of the subject company appeared on behalf of Appellants as their authorized representative. The authorized representative reiterated the submission made by the appellants in their application and have admitted the contravention of Section 92 & Section 137 of the Companies Act, 2013. The Authorized Representative stated that they have appealed on the ground that the company has been compulsorily delisted and has not conducted any business for the last 15 years and its net worth is totally ended. He further stated that even the bankers have closed the bank account as no minimum balance was maintained. He also added that the company doesn't have filing fees as of now.

7. Facts of the Case:

A] Section 92 of the Companies Act, 2013:

- a. The Company has failed to file a copy of Annual Return with the Registrar of Companies for the Financial Year 2018-19 within sixty days as per the provisions of Section 92 of the Act.
- b. Due date of filing Annual Return was 29/11/2019.
- c. Annual Return were not filed till the date of dispatch of the show cause notice dt. 26/10/2020. Default period is thus calculated to be at a total of 331 days from 30/11/2019 to 25/10/2020.

B] Section 137 of the Companies Act, 2013:

- a. The Company has failed to file a copy of Financial Statements with the Registrar of Companies for the Financial Year 2018-19 within thirty days as per the provisions of Section 137 of the Companies Act, 2013.
- b. Due date of filing Financial Statements was 30/10/2019.
- c. Financial Statements were not filed till the date of dispatch of the show cause notice dt. 26/10/2020. Default period is thus calculated to be at a total of 361 days from 31/10/2019 to 25/10/2020.

8. The punishment for contravention of Section 92 & Section 137 is prescribed under Section 92(5) & Section 137(3) of the Companies Act, 2013 which states that –

- A] Section 92(5): *"If any company fails to file its annual return under sub-section(4), before the expiry of the period specified therein, such company and its every officers who is in default shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees."*
- B] Section 137(3): *"If a company fails to file the copy of the financial statements under sub-section (1) or sub-section (2), as the case may be, before the expiry of the period specified therein, the company shall be liable to a penalty of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the*





*company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees."*

9. RoC, Mumbai vide further letter dt.29/05/2024 has concluded that none of the grounds cited by the company are legally tenable for statutory non-compliance.

10. Taking into consideration the Adjudication Orders of the Registrar of Companies, Mumbai, submissions made by the Appellants in their application, further letter of RoC, Mumbai dt. 29/05/2024 and, oral submissions of the authorized representative during the hearing, it is observed that:

- a) There is no inherent defect in both the Adjudication Orders dt. 12/01/2024.
- b) ROC, Mumbai has imposed penalty as per Section 92(5) & Section 137(3) of Companies Act, 2013.

11. In view of above, Registrar of Companies, Mumbai's Adjudication Orders, both dt.12/01/2024 are confirmed with directions to the appellants to pay the penalty imposed by the RoC for violating provisions of Section 92 & Section 137 of the Act within 90 days, failing which, Registrar of Companies, Mumbai, is directed to file prosecution under Section 454(8) of the Companies Act, 2013 against the company and every officer/director in default.

A copy of this order shall be published on the website of the Ministry of Corporate Affairs as per Rules.

Signed and sealed on 20<sup>th</sup> day of June 2024.



(SANTOSH KUMAR)  
REGIONAL DIRECTOR  
WESTERN REGION, MUMBAI

To,

1. Realtime Finlease Limited,  
25/B, Shanti Nagar, 98, Napean Sea Road,  
Mumbai, Mumbai City, Maharashtra 400006, India.

2. Dhanpatraj Phoolchand Mehta,  
25-B Shanti Nagar, 98 Nepeansea Road  
Mumbai 400006, Maharashtra, India.
3. Kushal Phoolchand Mehta,  
K 601, Jolly Residency, Vesu, Svr College,  
Surat, 395007, Gujarat, India.
4. Dilipkumar Phoolchand Mehta,  
G-704, Jolly Residency, Vesu,  
Surat, 395007, Gujarat, India.
5. Registrar of Companies, Mumbai.
6. E-Gov Cell, Ministry of Corporate Affairs, New Delhi.
7. Master Copy.
8. Office Copy.



(TUSHAR WAGH, ICLS)  
DEPUTY DIRECTOR