



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)/In House/92/F92851286/2023-24/

5060

21 JUN 2024

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

In the matter of IN HOUSE PRODUCTIONS LIMITED & ORS.

- | | | |
|----|------------------------------|------------------------|
| 1. | In House Productions Limited | - Company |
| 2. | Jayakant Bapalal Desai | - Additional Director. |
| 3. | Vijaykumar Shivrambhai Pawar | - Additional Director. |
| 4. | Rajendra Dhirubhai Bhagde | - Additional Director. |

... Appellants

Through: Jayesh V. Thummar, Practicing Company Secretary and Authorized Representative for Appellants.

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 In House Productions Limited (Company) having CIN U64200MH1993PLC072379 and, its Additional Directors, against Order No. ROC(M)/IN HOUSE/ADJ-ORDER/Sec.92/Sr.No.64/6374 dated 26/12/2023 (ROC Order) of Registrar of Companies, Mumbai for violating provisions of Section 92 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 Order dated 26/12/2023 held the Company and its Additional Directors, who have defaulted liable for penalty under Section 92(5) of the Act from 30/11/2019 to 12/03/2020 for not filing Annual Return for the Financial Year 2018-19 within sixty days from the date of Annual General Meeting in pursuance of Section 96 of the Act as under:

[Signature]

No. of days default	Penalty imposed on Company / KMP	First default (In Rs.)	Default continues	Total penalty levied (In Rs.)	Maximum penalty (In Rs.)
104 days	In House Productions Limited	50,000/-	104X100 = 10,400/-	60,400/-	5,00,000/-
	Jayakant Bapalal Desai	50,000/-	104X100 = 10,400/-	60,400/-	5,00,000/-
	Rajendra Dhirubhai Bhagde	50,000/-	104X100 = 10,400/-	60,400/-	5,00,000/-
	Vijaykumar Shivrambhai Pawar	50,000/-	104X100 = 10,400/-	60,400/-	5,00,000/-
TOTAL				2,41,600/-	20,00,000/-

4. Appellants have filed Form-ADJ vide SRN F92851286 dt. 29/02/2024. 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:

- The penalty levied on officer in default is beyond the maximum limit specified in Section 92(5) of the Companies Act, 2013.
- The company is non operative since many years and having no business.
- Annual Return has been filed under the Companies Fresh Start Scheme (CFSS), 2020.
- There was no malafide or fraudulent intention in delay in filing the Annual Return.
- The quantum of penalty imposed was without considering the facts as enumerated under Rule 3(12).
- The impugned penalty be quashed and set aside or no penalty/minimize the amount as imposed by RoC, Maharashtra.
- Grant stay in recover of penalty imposed till the disposal of present appeal.

6. The matter was posted for hearing as per Section 454(5) r/w Section 454(7) of the Act on 11/06/2024. Jayesh V. Thummar, Practicing Company Secretary appeared on behalf of Appellants as their authorized representative. The authorized representative reiterated the submission made by the applicants in their application and have admitted the contravention of Section 92 of the Companies Act, 2013. The Authorized Representative stated that they have appealed on the ground that Annual Return has been filed by the company under the Companies Fresh Start Scheme (CFSS), 2020.

7. Facts of the Case:

- 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 Companies Act, 2013.
- Due date of filing Annual Return was 29/11/2019.

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- c. Annual Return were not filed till the date of dispatch of the show cause notice dt. 13/03/2020. Default period is thus calculated to be at a total of 104 days from 30/11/2019 to 12/03/2020.

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

"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."

9. RoC, Mumbai vide further letter dt.03/06/2024 has concluded that the grounds of appeal relied by the appellants in their submissions are not tenable.

10. Taking into consideration the Adjudication Order of the Registrar of Companies, Mumbai, submissions made by the Appellants in their application, further letter of RoC, Mumbai dt.03/06/2024 and, oral submissions of the authorized representative during the hearing, it is observed that:

- There is no inherent defect in the Adjudication Order dt. 26/12/2023.
- ROC, Mumbai has imposed penalty as per Section 92(5) of Companies Act, 2013.
- The Appellants have failed to furnish the Immunity Certificate issued by Ministry of Corporate Affairs under CFSS-2020.

11. In view of above, Registrar of Companies, Mumbai's Adjudication Order dt. 26/12/2023 is confirmed with directions to the appellants to pay the penalty imposed by the RoC 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 20th day of June 2024.



(SANTOSH KUMAR)
REGIONAL DIRECTOR
WESTERN REGION, MUMBAI

To,

1. In House Productions Limited,
194 Park Street, RSC 2, S.V.P. Nagar, Andheri (West),
Mumbai, Mumbai City, Maharashtra 400053, India.
2. Jayakant Bapalal Desai,
A-27, Samasta Brahamshatriya Society, Narayan Nager Road,
Paldi, Ahmedabad, 380007, Gujarat, India.
3. Vijaykumar Shivrambhai Pawar,
D-90, Sitabag Tenament, Nr. Gabansha Bus Stop,
Ahmedabad, 382443, Gujarat, India.
4. Rajendra Dhirubhai Bhagde,
5/6, Vishranti Appartment, Dixit Road,
Opp, Bileshwer Darshan, Vile Parle(E),
Mumbai, 400057, Maharashtra, 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