

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)/Shankar Packagings/149(1)/ F87860607 /2023-24/ 2336

19 MAR 2024

In the matter of SHANKAR PACKAGINGS LIMITED.

AND

In the matter of an Appeal under sub-Section (5) of Section 454 of the Companies Act, 2013.

AND

In the matter of offence committed under Section 149(1) of the Companies Act, 2013.

- | | | | |
|----|----------------------------------|---|-------------------|
| 1. | Shankar Packagings Limited | - | Company. |
| 2. | Pranab Lalit Mitra | - | Company Secretary |
| 3. | Vikram Shankar Pandya | - | Managing Director |
| 4. | Avaneesh Rajnikant Dubey Dwivedi | - | CFO(KMP) |

... .. Appellants

Present: Pranab Lalit Mitra, Company Secretary of the subject Company and Authorized Representative appeared on behalf of the appellants on 27/02/2024.

ORDER

1. This is an appeal under sub-Section (5) of Section 454 of the Companies Act, 2013 (hereinafter called as "the Act") read with Companies (Adjudication of Penalties) Rules, 2014 (hereinafter referred to as the "Rules") from 'Shankar Packagings Limited' (hereinafter called as "the Company" or "Appellant") having CIN U25202MH1985PLC036120 and Directors/Officers of the company for violating provisions of Section 149(1) of the Companies Act, 2013.
2. This appeal has been filed against the Order No. ROC/MUM/Adj/2023/Section 149(1)/5003 dt. 30/10/2023, passed by Registrar of Companies (ROC), Mumbai for violating provisions of Section 149(1) of the Companies Act, 2013, read with Companies (Adjudication of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019 vide.
3. This appeal has been filed with the appellate forum being the Regional Director and having jurisdiction in the State of Maharashtra and Goa.
4. That Shankar Packagings Limited is a Company registered under the provisions of Companies Act and having its registered office at 303 Turf Estate, Dr. E. Moses. Road, Shakti Mills Lane, Mumbai, Maharashtra 400011, India.
5. This appeal in requisite Form ADJ having SRN F87860607 has been filed on 15/12/2023. 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.

6. ROC, Mumbai, vide his order dt. 30/10/2023 has stated as follows: -

- a. As per the Financial Statements filed by the company, its paid up share capital was Rs.2,80,49,530/- and turnover was Rs.398,14,29,906/- as on 31/03/2022.
- b. The company was required to appoint a woman director based on the thresholds stated above, but is failed to do so, thereby violating provisions of Section 149(1) of the Companies Act, 2013.
- c. The company has admitted the delay in appointment of woman director.
- d. Having considered the facts and circumstances of the case, the Adjudication Officer imposed maximum penalty on company and directors as per table below for violation of sub-Section (1) of Section 12 of the Companies Act, 2013.

No. of Days of default	Penalty imposed on Company / Director (s)	Total Penalty (Rs.) as per provisions of Section 172 of Companies Act, 2013.	Maximum penalty (In Rs.)	Actual Penalty (In Rs.)
271	Shankar Packagings Limited	50,000+(500X270) = 1,85,000	3,00,000/-	1,85,000/-
	Pranab Lalit Mitra	50,000+(500X270) = 1,85,000	1,00,000/-	1,00,000/-
	Vikram Shankar Pandya	50,000+(500X270) = 1,85,000	1,00,000/-	1,00,000/-
	Avaneesh Rajnikant Dubey Dwivedi	50,000+(500X270) = 1,85,000	1,00,000/-	1,00,000/-
TOTAL				4,85,000/-

7. Aggrieved by the said order, an appeal in requisite Form ADJ having SRN F87860607 has been filed on 15/12/2023, wherein, the grounds of relief and prayers are as under:
 - a. The woman director was appointed on 13/05/2023 along with other three directors.
 - b. The violation was not intentional.
 - c. Reduce the penalty on humanitarian grounds.
8. A Personal Hearing was given on 27/02/2024. Pranab Lalit Mitra, Company Secretary of the subject Company and Authorized Representative appeared on behalf of the appellants in presence of Shri Tushar Wagh, Deputy Director of this Directorate.
9. The punishment for contravention of Section 149(1) is provided under Section 172 of the Companies Act, 2013 which states that *"If a company is in default in complying with any of the provisions of this Chapter and for which no specific penalty or punishment is provided therein, the company and every officer of the company 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 five hundred rupees for each day during which such failure continues, subject to a maximum of three lakh rupees in case of a company and one lakh rupees in case of an officer who is in default."*
10. After carefully considering the Adjudication Order of the Registrar of Companies, Mumbai, submissions made by the Appellants in their appeal/application, oral submission of the authorized representative, this forum is of the view that no inherent defect is found in ROC's Adjudication Order dt.30/10/2023 and ROC, Mumbai has imposed fixed penalty as per law i.e. Section 172 of the Companies Act, 2013.

11. In view of above, the said appeal /application is hereby dismissed and disposed of and the appellants are hereby, directed to pay the penalty imposed by the Registrar of Companies, Mumbai vide Adjudication Order dt.30/10/2023 within 90 days, failing which, Registrar of Companies, Mumbai, is directed to proceed further under Section 454(8) of the Companies Act, 2013 by filing prosecution against the company and officers in default.
12. A copy of this order shall be published on the website of the Ministry of Corporate Affairs as per Rules.

Signed and sealed on 18th day of March 2024.



(SANTOSH KUMAR)
REGIONAL DIRECTOR
WESTERN REGION, MUMBAI

To,

1. Shankar Packagings Limited,
303 Turf Estate, Dr. E. Moses. Road, Shakti Mills Lane,
Mumbai, Maharashtra 400011, India.
2. PRANAB LALIT MITRA
302 Usha Sadan Chs Ltd, Marol Maroshi Road Andheri East,
Mumbai 400059, Maharashtra, India.
3. VIKRAM SHANKAR PANDYA
15-Green Park Society Behind Akota Stadium
Vadodara 390020, Gujarat, India.
4. AVANEESH RAJNIKANT DUBEY DWIVEDI
AB-69, Shree Darshan Society, Maneja
Baroda 390009, Gujarat, India.
5. Registrar of Companies, Mumbai.
6. E-Gov Cell, Ministry of Corporate Affairs, New Delhi.
7. Master Copy.
8. Office Copy.

"Certified True Copy"

(TUSHAR WAGH, ICLS)
DEPUTY DIRECTOR