

RD(WR)/Sec. 454(5)/ Pimpri Chinchwad Iron and Steel Merchants

Association/R34414003/2019-20/ 11638

In the matter of Companies Act, 2013: Section 454(5)

AND

In the matter of PIMPRI CHINCHWAD IRON AND STEEL MERCHANTS


ASSOCIATION

having Registered Office at T-57, MIDC, BHOSARI, PUNE, MH - 411026


....Appellant

ORDER

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 PIMPRI CHINCHWAD IRON AND STEEL MERCHANTS ASSOCIATION (hereinafter referred to as the "Company" or "Appellant") having CIN U91110PN2000NPL014586, incorporated under the Companies Act, 1956, having its registered office at T-57, MIDC, BHOSARI, PUNE, Maharashtra- 411 026, India against the order passed by Registrar of Companies, Pune, adjudicating a penalty for violation of Section 12(1) read with Section 12(4) of the Companies Act, 2013 vide Order No. ROCP/INQ/Adj/2019/1970 dated 03/01/2020.
2. The order was passed by the ROC on 03/01/2020 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 in Form ADJ (SRN R34414003) is filed on 01/03/2020. 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. On examination of the Application/ Appeal it is seen that the said appeal is filed within sixty days (60) from date of passing adjudication order by the Registrar of Companies, Pune (i.e. 01/03/2020). Hence, the appeal



was filed 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 Appellants. The appellants have violated the provision of Section 12(1) r/w Section 12(4) of the Act, 2013
 - b. The appellant company and its officer have made default for non-compliance of Section 12 of the Companies Act, 2013
 - c. Directorate has issued letter on 11/07/2019 to the company seeking information, however the said letter was returned undelivered with postal remark "LEFT" raising presumption that the registered office of the subject company is not being duly maintained as mandated under section 12 of the Companies Act, 2013. Hence, the Directorate vide letter dated 19/09/2019 directed Registrar of Companies, Pune to initiate proceedings against the company and its directors under section 12 r/w 454(1) of the Companies Act, 2013. Accordingly, the show cause notice under Section 454(5) for violation of Section 12 of the Companies Act, 2013 was issued to the Company and its directors/officers as per address/s available on the MCA Portal.
 - d. The letter issued by the ROC have been returned undelivered.
 - e. The ROC has imposed penalty of Rs. 1,00,000 (Rupees One Lakh) on Company, and Rs. 1,00,000 (Rupees One Lakh) each on Seven (7) officers of the Company for the said default vide dated 03.01.2020
5. In the appeal, the appellant has stated as under:
 - i. The Company was maintaining the registered office of the Company at 5, Lokesh Apartments, Telco Centuryenka Road, Pimpri, Pune - 411018. The company is inoperative from the date of incorporation and no employee or any other caretaker has been appointed by the Company due to its financial position, therefore the said premises remain closed.
 - ii. The premises of earlier registered office of the Company i.e. 5, Lokesh Apartments, Telco Centuryenka Road, Pimpri, Pune - 411018 was registered in the name of Jugalkishore Mugatlal Shah, one of the Directors of the Company. The said Director wanted to sell said premises due to his personal reason and therefore it was decided to shift its registered office to new location. The Company for said reason 

only removed its board from said premises and sent to repairing in order to have its new address on the same.

- iii. The Company and its Directors have not taken any intentional action to put itself out of reach of stakeholders/regulatory authorities and other concerned. The Company and its directors were and are maintaining the registered office in order to protect the public interest and to enable the investors, Public and whosever interest in the company can access the fundamental information about the Company and its management.
 - iv. The company and its Directors assures that it will take more due care and caution henceforth in compliance of the various applicable provision of the Companies Act, 2013 and Rules made thereunder.
 - v. 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 25/06/2021 at 2.30 p.m. on which dated Mr. Devendra Deshpande, 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 that the revised penalty to be paid as under , latest by 10/07/2021

7.

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	10,000/-
		Mr. Anil Mittal	10,000/-
		Mr. Anish Mathia	10,000/-
		Mr. Hasan Diler	10,000/-
		Mr. Jugalkishore Shah	10,000/-
		Mr. Ketan Parekh	10,000/-
		Mr. Shrikant Biyani	10,000/-
		Mr. Shyam Agarwal	10,000/-
		Total	80,000/-

Total penalty comes to Rs. 80,000/- for violation of Section 12(1) r/w Section (4) of the Act, 2013. Further, Appellant Company should submit an affidavit from the Appellant Company stating therein that Appellant Company will

take steps for converting the Company into Private Limited and thereafter for closing the Company as per provision of Act, 2013.

8. Pursuant to the said directions of this forum, the Appellant Company vide letter dated 11.08.2021 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 25/06/2021, the total penalty of Rs. 80,000/- has been paid for Section 12(4) of the Act, 2013 by the Company and 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	10,000/-	SRN U92551373 dated 09/07/2021
2	Mr. Anil Mittal	10,000/-	SRN U92561133 dated 09/07/2021
3	Mr. Anish Mathia	10,000/-	SRN U92568377 dated 09/07/2021
4	Mr. Hasan Diler	10,000/-	SRN U92553163 dated 09/07/2021
5	Mr. Jugalkishore Shah	10,000/-	SRN U92553411 dated 09/07/2021
6	Mr. Ketan Parekh	10,000/-	SRN U92561810 dated 09/07/2021
7	Mr. Shrikant Biyani	10,000/-	SRN U92567296 dated 09/07/2021
8	Mr. Shyam Agarwal	10,000/-	SRN U92568393 dated 09/07/2021
	Total	80,000/-	

Further, company has submitted affidavit as directed by this forum about converting the Company into Private Limited and thereafter striking off the Company.

9. In view of the above and penalty having been paid by the Appellant Company and officers in default, the Appeal is disposed off accordingly.
10. A copy of this order shall be published on the website of the Ministry of Corporate affairs as per Rules.

Signed and sealed on *26th* day of August, 2021.



M.P. Shah
(M.P. SHAH) *26/8/2021*
REGIONAL DIRECTOR
WESTERN REGION, MUMBAI.

1. Pimpri Chinchwad Iron and Steel Merchants Association
T-57, MIDC, Bhosari, Pune,
Maharashtra - 411 026
2. The Registrar of Companies, Pune
3. Master Copy
4. Office Copy