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भारत सरकार/GOVERNMENT OF INDIA

कारपोरेट कार्य मंत्रालय/Ministry of Corporate Affairs

कम्पनी रजिस्ट्रार कार्यालय(प.बंगाल)/Office of the Registrar of Companies (West Bengal)

निजाम पैलेस,दुसरा एम एस ओ बिल्डिंग,द्वितीय तल/Nizam Palace, 2nd M. S. O. Building, 2nd Floor

आचार्य जगदीश चन्द्र बोस रोड/ 234/4, Acharya Jagadish Chandra Bose Road

कोलकाता/KOLKATA – 700 020

No. ROC/SEC-12/2019/140262/penalty order/

Dated: 26-06-2019

**Order for Penalty for violation of section 12(1) r/w Section 12(4) of the Companies Act,
2013**

M/S. BABA BHUTNATH CONSTRUCTIONS PRIVATE LIMITED

U45400WB2009PTC140262

Appointment of Adjudicating Officer:-

1. Ministry of Corporate Affairs vide its Gazette Notification No A-42011/112/2014-Ad.II dated 24.03.2015 appointed undersigned as Adjudicating Officer in exercise of the powers conferred by section 454 of the Companies Act, 2013 [herein after known as Act] read with Companies (Adjudication of Penalties) Rules, 2014 for adjudicating penalties under the provisions of this Act.

Company:-

2. Whereas, Company M/S. BABA BHUTNATH CONSTRUCTIONS PRIVATE LIMITED [herein after known as Company] is a registered company with this office under the provisions of Companies Act, 2013/1956 (or previous Acts in force, as applicable) having its registered address at 18 A JADULAL MULLICK ROAD Kolkata-700006, WEST BENGAL India as per MCA website.

Facts about the Case:-

3. AND WHEREAS, this office received a complaint against the Company from Govardhan Das Binani dated 26-12-2018 and wherein it is alleged that there is no registered office of the Company. Hence; this Office issued show cause notice under section 12 of the Act dated 20-02-2019 to the company and its officers for which reply has been received on 04-03-2019, which is found to be not satisfactory.
4. That upon instruction of the competent authority, the official of this office has conducted a physical/spot verification of the registered office of the company and point out violation under section 12(1) of the Companies Act, 2013 as under:-
"It is seen that the Company's Board is available and door is closed under lock and key. On the enquiry from the local people they are unaware of the existence of such company". Hence, the Company has violated the provisions of section 12(1) of the Act.
5. Sections 12 (1), 12(4) and 12(8) are reproduced as under:-
Section 12(1) - A company shall, on and from the fifteenth day of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notice as may be addressed to it.
Section 12(4) - Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within fifteen days of the change, who shall record the same.
Section 12(8) - If any default is made in complying with the requirements of this section, the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every day during which the default continues but not exceeding one lakh rupees.
6. Whereas, this office had issued "Notice for Inquiry" vide No. ROC/Legal/S-12/2019/720 to 724 dated 28-05-2019 to the company and directors/Officers in default, to appear personally or through authorized representative under Rule 3 (3), Companies (Adjudication of Penalties) Rules, 2014 on 12-06-2019 [between

10.30 AM to 12.30 PM] and Notices were issued to submit their response, if any, two days prior to date of hearing i.e. 10-06-2019. However, the matter has been adjourned to 19-06-2019 for hearing due to pre-occupation of the adjudication officer.

7. In pursuance to this office notice of hearing, Mr. Shital Khemka, FCA and Ms. Priyanka Agarwal, CS appeared on behalf of the company and its directors. The cause of action commences based on a compliant received by this office. This office conducted a physical examination of registered office and reported that the Company registered office is available at the address and nobody is available in the building and the building is also under lock and key. The authorized representative stated that the Company is maintaining its registered office since incorporation and the non-availability of the person is only an accidental and they are in receipt of all other correspondence address to the registered office. Since, the cause of action is based on a compliant and this office needs to redress the grievance of the complainant. Thus, the Company and its directors/officers in default are liable for penalty as per Section 12(8) of the Act for the lapse during that time.

ORDER

8. Having considered the facts and circumstances of the case and after taking into account the factors above, I hereby impose a penalty of Rs. **25,000/-** (Rupees Twenty Five Thousand) on the concerned Company and Rs. **10,000/-** (Rupees Ten Thousand) on each of the four Directors /officers in default under Section 12(8) of the Act for failure to make compliance of the Act u/s. 12(1) r/w 12(4) of the Act. I am further of the opinion that penalty is commensurate with the aforesaid failure committed by the Noticee.
9. The noticee shall pay the said amount of penalty individually for the company and its directors (out of own pocket) by way of e-payment [available on Ministry website www.mca.gov.in] under "Pay miscellaneous fees" category in MCA fee and payment Services within 90 days of receipt of this order. The Challan/SRN

generated after payment of penalty through online mode shall be forwarded to this Office Address.

10. Appeal against this order may be filed in writing with the Regional Director (ER), Ministry of Corporate Affairs, Kolkata within a period of sixty days from the date of receipt of this order, in Form ADJ [available on Ministry website www.mca.gov.in] setting forth the grounds of appeal and shall be accompanied by a certified copy of the this order. [Section 454(5) & 454(6) of the Act read with Companies (Adjudicating of Penalties) Rules, 2014].
11. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.

Joseph Jackson
(K G JOSEPH JACKSON)

Registrar of Companies & Adjudicating Officer
West Bengal

To

1. M/S. BABA BHUTNATH CONSTRUCTIONS PRIVATE LIMITED
18 A JADULAL MULLICK ROAD
Kolkata-700006
2. BITHAL DAS DAGA
41, SIMLA ROAD, VINAYAK ENCLAVE
BLOCK-D 3RD FLOOR MANIKTALA, BEADON STREET,
KOLKATA 700006 WB IN
3. DINESH CHANDRA GUPTA
SILVER SPRING, BLOCK-7 FLAT-10C,
5JBS HALDEN AVENUE
KOLKATA 700105 WB IN
4. ANITA RATHI
37 DIAMOND HARBOUR ROAD, ALIPORE, FLAT-6B
KOLKATA 700027 WB IN
5. KAMALA DEVI DAGA
VINAYAK ENCLAVE 41, SIMLA ROAD,

P.S MANIKTALA
KOLKATA 700006 WB IN

Copy to:- The Regional Director (ER), Ministry of Corporate Affairs, 234/4, A.J.C Bose Road,
2nd M.S.O. Building, 2nd Floor, Kolkata-700020, for information please.