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भारत सरकार/Government of India

कारपोरेट कार्य मंत्रालय/Ministry of Corporate Affairs

कार्यालय कम्पनी रजिस्ट्रार, बिहार-सह-शासकीय समापक उच्च न्यायालय, पटना
Office of the Registrar of Companies, Bihar-cum-Official Liquidator, High Court, Patna
चौथा तल, 'क' खण्ड, मौर्यालोक काम्पलेक्स/4th Floor, 'A' Wing, Maurya Lok Complex
डाक बंगला रोड, पटना /Dakbunglow Road, Patna-800001

No.: ROC/S-203/BR/11187

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Date: 05.03.2020

Order for penalty for violation of section 203 of the Companies Act, 2013 read with rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014

**M/S. MANI COLD STORAGE PRIVATE LIMITED
CIN: U63020BR2005PTC011187**

Appointment of Adjudication 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. Mani Cold Storage Private Limited (herein after known as Company) is a registered company with this office under the provisions of the companies Act, 2013/1956 (or previous Acts in force, as applicable) having its registered office situated at C/o. Aanil Kumar Singh, New Colony, Dharampur, M.S.-29, Pin-848101, MS, Bihar, 848101, India as per MCA website.

Facts about the case:-

3. WHEREAS, the company M/s. Mani Cold Storage Private Limited is a private company having paid up capital of Rs. 50000000.
4. WHEREAS, section 203 of the Companies Act, 2013 which provides that:- "Every Company belonging to such class or classes of companies as may be prescribed shall have the following whole-time Key Managerial Personnel,-

- (i) Managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;
- (ii) Company secretary; and
- (iii) Chief Financial Officer”.
5. WHEREAS, rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 provides that “A company other than a company covered under rule 8 which has a paid up share capital of five crore rupees or more shall have a whole-time company secretary.
6. WHEREAS, as per MCA record there is no whole-time company secretary in the company, this office has issued a show cause notice under section 203 of the Companies Act, 2013 read with Rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 and the Companies (Amendment) Ordinance, 2019 dated 07.05.2019 to the company and its directors and reply has not been received from the company and directors and also no whole time company secretary has been appointed in the company.
7. WHEREAS, this office has issued a notice for hearing under Section 203 of the Companies Act, 2013 Read with Rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 dated 10.02.2020 to the company and its directors officers in default to appear personally or through authorized representative under Rule 3(3) of the Companies (Adjudication of Penalties) Rules, 2014 on 04.03.2020 at 01:30 p.m and also to submit their response, if any, one day prior to date of hearing i.e. 03.03.2020.
8. That, on the date of hearing neither the authorized representative of the company nor the directors were present for hearing and also reply has not been received. Hence the Company and its directors/Officers in default are liable for penalty as per section 203(5) of the Companies Act, 2013.

ORDER

9. Having considered the facts and circumstances of the case and after taking into account the factors above, I hereby impose a penalty of Rs. 500000 (five lakh) on the company and Rs. 50000 (fifty thousand) each on the 3 (three) directors of the company under section 203(5) of the Act for failure in compliance of section 203(1) of the Companies Act, 2013 read with Rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014.
10. The noticee shall pay the 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 (ninety) days of this order. The Challan/SRN generated after payment of penalty through online mode shall be forwarded to this office.

11. Appeal against this order may be filled in writing with the Regional Director (ER), Ministry of Corporate Affairs, Kolkata, within a period of 60 (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 this order {Section 454(6) of the Act read with Companies (Adjudication of Penalties) Rules, 2014}.
12. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.



(HIMANSHU SHEKHAR)

Registrar of Companies & Adjudicating Officer
Patna.

To

1. Mani Cold Storage Private Limited
C/o. Aanil Kumar Singh, New Colony,
Dharampur, M.S.-29, Pin-848101, MS,
Bihar, 848101, India.
2. Shri Dhananjay Kumar,
New Colony, Dharampur,
Samastipur, 848101, Bihar, India
3. Shri Anil Kumar Singh,
New Colony, Dharampur,
Samastipur, 848101, Bihar, India.
4. Smt. Rashila Sinha,
New Colony, Dharampur,
Samastipur, 848101, Bihar, India.

Copy to:-

The Regional Director (ER),
Ministry of Corporate Affairs
234/4 A.J.C. Bose Road, 2nd MSO Building,
2nd Floor, Kolkata 700020, for information please.

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05/03/2020