



No.ROC/D/2017/PV/Avadh Credit/4942-~~4949~~4951 Dated 20.09.2019

Order for Penalty under Section 454 (8) (i) & (ii) for violation of section 12(1) r/w Section 12(4) of the Companies Act, 2013

AVADH CREDIT AND LEASE LIMITED

U65921DL1997PLC088204

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 adjudging penalties under the provisions of this Act.

Company:-

1. Whereas Company **Avadh Credit And Lease Limited** [herein after known as **Company**] is a registered company with this office under the provisions of Companies Act, 1956 having its registered address at C/o- Shekhar Bhatia, 487/35A, T/F Back Side Portion, Peera Garhi, Outer Ring Road, New Delhi-110087, India, as per the MCA website.

Facts about the Case:-

1. Whereas this office was in receipt of RD (NR) order dated 12.01.2018 vide no G46467460/2013 /13355 wherein it was mentioned that the letters issued by the office of RD (NR) on 10.08.2017, 13.09.2017 & 11.12.2017 at the registered office of the company were returned back undelivered with postal remark "left" which is a violation of Section 12 (1) and which attracted penal provisions of Section 12 (8) of the Companies Act, 2013.

Subsequently, this office had issued Show Cause Notice U/s. 454 for violation of Section 12 (1) of the Act vide No. ROC/D/2017/PV/Avadh Credit/11605-11610 dated 05.03.2018 to the company and its officers, in default.

1. **Following was mentioned in the aforesaid SCN dated 05.03.2018:-**



Whereas this office was in receipt of RD (NR) order dated 12.01.2018 vide no G46467460/2013 /13355 wherein it was mentioned that the letters issued by the office of RD (NR) on 10.08.2017, 13.09.2017 & 11.12.2017 at the registered office of the company were returned back undelivered with postal remark "left" which is a violation of Section 12 (1) and which attracted penal provisions of Section 12 (8) of the Companies Act, 2013.

(b) 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.

2. That no reply has been received to the show cause notice dated 05.03.2018 and show cause notice sent at the registered office address of the company has been returned back with postal remark "left".
3. Subsequently Notice of Inquiry was issued vide letter dated 10.09.2018 to the company and officers in default scheduling the date of hearing in the matter on 13.09.2018 at 10.30 A.M. But neither the reply/correspondence has been received nor any one appeared for hearing.
4. In view of the above, physical verification of the registered office of the subject company was carried out by this office on 17.10.2018 wherein it was reported that there is no such company with name and style "Avadh Credit and Lease Limited" is registered/available at that address.
5. Meanwhile a request letter dated 10.12.2018 from Mr. Vivek Juneja (on behalf of the company and its directors) has been received seeking another date of hearing as they were unable to be present on the earlier date of hearing due to some unavoidable circumstances.
6. On considering the request made by the company, next date of hearing was scheduled to 27.03.2019 but due to unavailability of Adjudicating Officer on the scheduled date of hearing, the date of hearing was postponed to 22.04.2019 at 11.30 A.M.
7. On the date of hearing i.e. on 22.04.2019 "Mr Shekhar, Authorized Representative of the Company" has attended the proceeding and furnished the documents/clarification and



admitted the default made by the company. On perusal of the documents it has been observed that there is violation of provision of Section 12(1) of the Act from 10.08.2017 to 17.10.2018.

8. In view of the facts narrated above, the company and its directors/officers, in default are liable for penalty as per section 12(8) of the Act.

9. Factors to be taken into account by the Adjudicating Officer:-

While adjudging quantum of penalty under section 12(8) of the Act, the Adjudicating Officer shall have due regard to the following factors, namely:

- a. The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of default.
 - b. The amount of loss caused to an investor or group of investors as a result of the default.
 - c. The repetitive nature of default
10. With regard to the above factors to be considered while determining the quantum of penalty, it is noted that the disproportionate gain or unfair advantage made by the noticee or loss caused to the investor as a result of the delay on the part of the noticee to redress the investor grievance are not available on record. Further, it may also be added that it is difficult to quantify the unfair advantage made by the noticee or the loss caused to the investors in a default of this nature.

ORDER

11. Having considered the facts and circumstances of the case and after taking into account the factors above, I hereby impose a penalty of **Rs.100000/- (Rupees One Lakh Only)** on each of the addressees of this order, as the default continues from **10.08.2017 [Date of RD's undelivered letter]** to **17.10.2018 [Date of Physical Verification of the registered office of the company]** 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 of this opinion that penalty is commensurate with the aforesaid failure committed by the Noticee.
12. The noticee shall pay the said amount of penalty by way of Demand Draft in favour of "Pay & Accounts Officer, Ministry of Corporate Affairs, New Delhi, payable at Delhi, within 90 days of receipt of this order. The Demand Draft shall be forwarded to this Office Address.
13. Appeal against this order may be filed in writing with The Regional Director (NR), Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003 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].

14. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.

(Kamal Harjani)

Registrar of Companies & Adjudicating Officer
NCT of Delhi & Haryana

To

1. Avadh Credit And Lease Limited,
C/o- Shekhar Bhatia, 487/35A, T/F Back Side Portion,
Peera Garhi, Outer Ring Road, New Delhi-110087, India.
2. Mr. Vivek Juneja,
Plot No 64, Block-1, South City-1,
Gurgaon-122001, Haryana, India.
3. Ms. Kalpana Juneja,
Block-1, Plot No.64, South City-1,
Gurgaon-122001, Haryana, India.
4. Ms. Madhu Juneja,
House No I-64, First Floor, South City-1,
Behind Gurudwara, Gurgaon-122001, Haryana, India.
5. Mr. Vikas Juneja,
I-64, South City-1, Near Gurudwara,
Gurgaon-122001, Haryana, India.
6. Mr. Ashish Taneja,
K.A-61, Kavi Nagar,
Ghaziabad-201001, Uttar Pradesh, India.
7. Mr. Sudipt Kumar Juneja,
I-64, behind Gurudwara, South City-1,
Gurgaon-122001, Haryana, India.
8. Mr. Sarang Juneja,
I-64, South City-1,
Gurgaon-122001, Haryana, India.
9. MS. Monika Taneja,
K.A-61, Besides Brahm Kumari Ashram,
Kavi Nagar, Ghaziabad-201001, Uttar Pradesh, India.

9/C
11-09-19

Copy to:-

Ministry of Corporate Affairs, (Through Proper Channel)
The Regional Director (NR),
Ministry of Corporate Affairs,
B-2 Wing, 2nd Floor, Pt. Deendayal Upadhyaya Bhawan,
CGO Complex, Lodhi Road, New Delhi-110003, (for information please.)

