

भारत सरकार
कापोरेट कार्य मंत्रालय
कार्यालय कंपनीज रजिस्ट्रार, दिल्ली एवं हरियाणा
चतुर्थ तल, आई.एफ.सी.आई. टॉवर, 61 नेहरू प्लेस,
नई दिल्ली -110019



GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS,
OFFICE OF REGISTRAR OF COMPANIES,
NCT OF DELHI & HARYANA
4TH FLOOR, IFCI TOWER, 61, NEHRU PLACE,
NEW DELHI -110019

ROC/D/2019/Mynd Integrated Solutions/penalty order/5152 - 5155 Dated 26.09.2019

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

MYND INTEGRATED SOLUTIONS PRIVATE LIMITED

U74999DL2009PTC192662

Appointment of Adjudicating Officer:-

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:-

Whereas Company **Mynd Integrated Solutions Private 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 F-83, East of Kailash, New Delhi-110065, India, as per the MCA website.

Facts about the Case:-

Whereas this office had received a letter dated 09.05.2018 from the office of the Regional Director (NR) stating that the letter dated 27.04.2018 was issued to company at its registered office address with request to submit required information to this Directorate in the matter of Scheme of Arrangement/Amalgamation under section 230 to 232 of the Companies Act, 2013. The letter was received back undelivered with marking "**No Such Firm**", which is a violation of Section 12 (3) (a) 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 of the Act vide No. ROC/D/PV/ Mynd Integrated Solutions/6350-6353 dated 10.10.2018 to the company and its officers, in default.

1. Following was mentioned in the aforesaid SCN dated 10.10.2018:-



Whereas this office had received a letter dated 09.05.2018 from the office of the Regional Director (NR) stating that the letter dated 27.04.2018 was issued to company at its registered office address with request to submit required information to this Directorate in the matter of Scheme of Arrangement/Amalgamation under section 230 to 232 of the Companies Act, 2013. The letter was received back undelivered with marking "No Such Firm", which is a violation of Section 12 (3) (a) and which attracted penal provisions of Section 12 (8) of the Companies Act, 2013.

(2) 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.

- (1) That reply of the company vide letter dated 24.10.2018 has been received to the show cause notice dated 10.10.2018 issued by this office stating that –
1. The registered office of the company was under renovation from Monday, April, 23, 2018 to Friday, May 11, 2018.
 2. The company was carrying out all its business operations from its corporate office at 280, Udyog Vihar, Phase-IV, Gurugram, Haryana- 122001.
 3. No employee was present at the registered office at the relevant time except for the Facility Manager and the watchman.
 4. The postman refused to deliver the letter to Facility Manager and the watchmen. It was because of this letter issued by RD office could not be delivered at the registered office of the company.
 5. Now, upon the completion of renovation work at registered office, the employees of the company have resumed their operations at the registered office with effect from Monday, May 14, 2018.
 6. The company has also submitted an explanation letter to RD as well explaining the same reason for non-receipt of the information letter dated 27th April, 2018.



(2) **On examining the reply submitted by the company, it was not found to be satisfactory.**

- (3) Subsequently Notice of Inquiry was issued vide letter dated 04.06.2019 to the company and officers in default scheduling the date of hearing on 14.06.2019 (at 02.30 P.M.)
- (4) Meanwhile company requested to re-schedule the date of hearing as they are still in process of collating the requisite information/ documents vide its email dated 11.06.2019.
- (5) After considering the request made by the Company, the date of hearing is re-scheduled to 03.07.2019 (at 11.30 A.M.) and intimated to the company through an email dated 25.06.2019.
- (6) On the scheduled date of hearing i.e. on 03.07.2019, Mr. Kapil Malhotra, Authorized representative of the subject company (Chartered accountant) and Ms. Ankita Sharma (Company Secretary) have appeared and attended the hearing proceedings. Ongoing through the documents/representation submitted by the company it has been observed that the registered office of the company was under renovation from 23.04.2018 to 11.05.2018 and only facility manager and watchmen were present to receive necessary documents. It shows that the company has not maintained registered office on the address given in the records during that specific period. Therefore penalty is levied for 18 days.
- (7) 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:

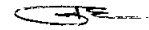
- a. The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of default.
- b. The amount of loss caused to an investor or group of investors as a result of the default.
- c. The repetitive nature of default

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. 18,000/- (Rupees eighteen thousand Only)** on each of the addressees of this order, as the default continues from **23.04.2018 [starting date of renovation of registered office]** to **11.05.2018 [Date of re- maintaining the registered office after renovation]** 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. Mynd Integrated Solutions Private Limited,
F-83, East of Kailash, New Delhi-110065, India.
2. Mr. Vivek Misra, Whole Time Director
7-B, Jungpura B, Mathura Road,
Delhi-110014, India.
3. Ms. Ankit Sharma, Company Secretary
RZG-316, Raj Nagar, Part-2 Palam Colony,
New Delhi-110077, India.



9/2
18.08.19

Copy to:-

Ministry of Corporate Affairs,
5th Floor, A-wing Shashtri Bhawan,
New Delhi - 11001, India **(through proper route)**
(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.)