

BEFORE THE ADJUDICATING OFFICER
REGISTRAR OF COMPANIES, GUJARAT, DADRA & NAGAR HAVELI

No. ROC-GJ/2020-21/ Ghushine Fintrade / ADJ. ORDER/Sec.12/

Dated:

19 JAN 2021/

ORDER FOR PENALTY UNDER SECTION 454 OF THE COMPANIES ACT, 2013 READ WITH COMPANIES (ADJUDICATION OF PENALTIES) RULES, 2014 and COMPANIES (ADJUDICATION OF PENALTIES) AMENDMENT RULES, 2019 FOR VIOLATION OF SECTION 12(1) R/W Section 12(4) OF THE COMPANIES ACT, 2013

S183 To S185

In the matter of M/s. GHUSHINE FINTRRADE OCEAN LIMITED
(L65910GJ1995PLC025823)

Date of hearing- 19.01.2021

Appointment of Adjudication Authority:-

1. The Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad.II dated 24.03.2015 has appointed the undersigned as Adjudicating Officer in exercise of the powers conferred under section 454 of the Companies Act, 2013 (hereinafter known as Act) read with Companies (Adjudication of Penalties) Rules, 2014 (Notification No. GSR 254(E) dated 31.03.2014) for adjudging penalties under the provisions of Act.

Company:

2. Whereas Ghushine Fintrade Ocean Limited (L65910GJ1995PLC025823) (herein after referred to as "company") is a registered company with this office under the provisions of the Companies Act, 1956/2013 having its registered office at Meznine Floor, M 12, Nilkamal Apartment, Mahatmawadi Salabatpura, Surat, Gujarat-395003 as per the record maintained under the MCA Website.

Fact about of the case:

3. WHEREAS, this office has sent a letter No. ROC-GJ/GHUSHINE/STA(V)/2020-21/2935 dated 03.11.2020 at the registered office of Ghushine Fintrade Ocean Limited in continuation to this office letter No. ROC-GJ/GHUSHINE/STA(V)/2020-21/1907 dated 13.10.20, seeking certain

information/documents in connection to prospectus filed vide SRN G00577932 dated 09.04.2016 for raising funds to the tune of Rs. 260.00 Lakhs through Public Offer having object for augmenting additional working capital requirements and public issue expenses. However, the postal Authorities have returned the said letter with remarks "Left". it appears that the company is not maintaining its registered office in compliance of the Section 12 of the Companies Act, 2013, Which is a violation of Section 12 (1) / 12(4) of the Act and which attracted penal provisions of Section 12(8) of the Companies Act, 2013.

4. Sections 12(1), 12(4) and 12(8) of the Act are reproduced as under:-

Section 12(1)- A company shall, within thirty days of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices 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 register within thirty 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.

Show Cause Notice, reply and personal Hearing:-

5. An Adjudication Notice vide No. ROC-GJ/ Sec.454 (3)/ Ghushine Fintrade / STA(V)/2020-21/ 3826 to 3827 dated 25.11.2020 was issued to the company and its officers in default for violation of Section 12(1) r.w. Section 12(4) of the Act. But, letter issued to the company has return back undelivered with postal remarks "Left".

6. The company vide letter dated 30.12.2020 has submitted reply that the registered office of the Company was shifted to Meznine Floor, M 12, Nilkamal Apartment, Mahatmawadi, Salabatpura, Surat, Gujarat-395003, but due to non availability of Company Secretary INC-22 was not filed for change in registered office address. The company has filed the form INC22 for shifting of registered office address, looking at the pandemic situation the company wont be able to bare cost of penalty and therefor requesting the to reduce the amount of penalty u/s 12(8) of the Companies Act, 2013.
7. Thereafter, a "Notice of Inquiry" vide No. ROC-GJ/ Adj/Ghushine Fintrade / SEC. 454/5154 to 5155 dated 18.01.2021 was issued to the company and its officers in default as per Rule 3(3) of Companies (Adjudication of Penalties)Rules 2014 and a hearing was fixed for 19.01.2021.
8. On the Scheduled date of hearing i.e. on 19.01.2021, Mr. Alok Bhopal Singh Jain, Managing Director of the subject company has appeared and attended the hearing proceedings and submitted written submission.
9. It is observed from the MCA21 portal that the company has filed notice of change of situation of registered office w.e.f. 11.05.2019 203, Trividh Chambers, Ring Road, Surat Surat Gujarat to Meznine Floor, M 12, Nilkamal Apartment, Mahatmawadi Salabatpura, Surat, Gujarat-395003 by filing of prescribed e-form INC-22 vide SRN R82559444 on 05.01.2021.
10. Under the above circumstances, the undersigned has reasonable cause to believe that the company and its officers have failed to file Notice of change of the situation of the registered office within 30 days of the change as per the requirement of Section 12(4) of the Companies Act, 2013 i.e. from 11.06.2019 to 04.01.2021. In view the facts narrated above, the company and its directors /officers, in default are liable for penalty as per Section 12(8) of the Act.

ORDER:

11. 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, whenever 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.

12. 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 notice to redress the investor grievance are not available on the 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.

13. Having considered the facts and circumstances of the case and submissions made by the Noticees through written submission and oral submission by Authorised representative during personal hearing and after taking into accounts the factors above, the undersigned has reasonable cause to believe that the company and its officers have failed to file Notice of situation of its registered office with in 30days as per the requirement of Section 12(4) of the Companies Act, 2013 i.e. during the period from 11.06.2019 to 04.01.2021. I hereby imposed a penalty on company and its directors/Ex. Directors as per table below for violation of section 12(4) of the Companies Act, 2013. I am of the opinion that penalty is commensurate with the aforesaid failure committed by the Noticees:

No. of days of default	Penalty imposed on company/Director	Amount of Penalty (In Rs.)	Maximum (Rs. 1Lakh)	Total (In Rs.)
573*	On company	573X1000/-=5,73,000	1,00,000	1,00,000
	On Mr. Alok BhoosalSingh Jain (DIN 00006643)	573X1000/-=5,73,000	1,00,000	1,00,000

* No. of days have been calculated from 01 month from the date of change of its registered office address up to 04.01.2021 [date of filing of Notice for change of new registered office address under the MCA21 portal]

14. The Noticee shall pay the said amount of penalty in the Misc. Head available on Ministry Website www.mca.gov.in and proof of payment be produced for verification in this office within 90 days from the date of receipt of this order.
15. Appeal if any against this order may be filed in writing with the Regional Director, North Western Region, Ministry of Corporate Affairs, ROC BHAVAN, OPP. RUPAL PARK, NR. ANKUR BUS STAND, NARANAPURA, AHMEDABAD (GUJARAT)-380013 within a period of sixty days from the date of receipt of this order, in Form ADJ setting forth the grounds of appeal and shall be accompanied by the certified copy of this order. [Section 454 of the Companies Act, 2013 read with the Companies (Adjudicating of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019].
16. Please note that as per the provisions of **Section 454(8) (i)** of the Companies Act, 2013, where company does not pay the penalty imposed by the Adjudicating Officer or the Regional Director within a period of **Ninety days (90 days)** from the date of the receipt of the copy of order, the company shall be punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakhs rupees. Further as per of **Section 454(8) (ii)** of the Companies Act, 2013, where an officer of a company who in default does not pay the penalty within a period of **Ninety days (90 days)** from the date of receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.
17. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order which provides that in case of default in

payment of penalty, prosecution will be filed u/s 454(8)(ii) of the Companies Act, 2013 at your own costs without any further notice.

The adjudication notice stands disposed of with this order.


M. K. SAHU (ICLS)

Registrar of Companies & Adjudicating Officer
Gujarat, Dadra & Nagar Haveli

To

1. M/S. GHUSHINE FINTRRADE OCEAN LIMITED
Meznine Floor, M 12, Nilkamal Apartment,
Mahatmawadi Salabatpura,
Surat, Gujarat-395003
2. MR. ALOK BHOPALSINGH JAIN (DIN 00006643)
(Managing Director)
S/O SHRI BHOPALSINGH BANARASIDAS JAIN
F-316 GREEN AVENUE COMPLEX,
GHOD DOD ROAD NEAR UNION SQUARE GALI,
SURAT-395009, GUJARAT


M. K. SAHU (ICLS)

Registrar of Companies & Adjudicating Officer
Gujarat, Dadra & Nagar Haveli.

[Copy to:

Ministry of Corporate Affairs, (Through Proper Channel)
The Regional Director, (NWR), Ministry of Corporate Affairs, Ahmedabad-
380013 (for information please)