



Email: roc.bangalore@mca.gov.in

Telephone No.: 080-25537449

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
OFFICE OF THE REGISTRAR OF COMPANIES, KARNATAKA
II FLOOR, "E" WING, KENDRIYA SADAN, KORAMANGALA, BANGALORE - 560 034

No. ROCB/ Adj. Order /Sec.454- 137/Co. No.76073/2019-2020 Date: 18.08.2020

ORDER OF ADJUDICATION OF PENALTY UNDER SECTION 454 OF COMPANIES ACT 2013 READ WITH RULE 3 OF THE COMPANIES (ADJUDICATION OF PENALITES) RULES 2014 FOR VIOLATION OF PROVISIONS OF SECTION 137 OF THE COMPANIES ACT 2013 BY M/S METARAIN DISTRIBUTORS PRIVATE LIMITED

1. In the matter of **M/s Metarain Distributors Private Limited** incorporated on 27.08.2014 under the jurisdiction of Registrar of Companies, Bangalore with the registered office situated at **No.309/1, 4th Floor, Survey No. 1352, CMC No. 468, BBMP No. 18, Roopena Agrahara Near Silk Board Bangalore KA 560068.**
2. *Whereas as per Section 137(1) of the Companies Act, 2013, a copy of the Financial statement, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the Annual General Meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed.*
3. *Whereas the provisions of sub-section (2) of Section 137 stipulate that "where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (1), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be "prescribed".*
4. *Whereas as per sub-section (3) of Section 137 of the Companies Act, 2013, (pre-amended Act, 2019), If a company fails to file the copy of the financial statements under sub-section (1) or sub-section (2), as the case may be, before the expiry of the period specified therein, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.*

5. It is seen from the petition that the company's AGM was due to be held on **30.09.2017**. However, the company had sought extension of time for holding AGM vide letter dated 12.09.2017 and extension of time for a period of two months i.e, 60 days was granted by ROC and thereby, the due date falls on **30.11.2017**. But it is seen that AGM was conducted only on **28.03.2018**.
6. The financial statements due to be filed within 30 days from the date on which AGM ought to have been held. i.e., one month from **30.11.2017**. Hence, the due date for filing of financial statements, viz., AOC-4 falls on **30.12.2017**. However, the financial statements in Form AOC-4 were filed only on **16.05.2018** with a **delay of 137 days (from 31.12.2017 to 15.05.2018)**, thereby violated the provisions of Section 137 of the Companies Act, 2013.
7. This office has received Application for Adjudication submitted by the company on 06.02.2019 for adjudicating the offence committed under section 137 of the Companies Act, 2013.
8. Due to COVID-19 pandemic, advisory had been issued by the Ministry of Corporate Affairs to conduct hearings through Video Conference in the matters of Adjudication of penalties by ROCs. In view of the said guidelines, hearing was held on 24.07.2019 (Friday) through VC. Mr.Karan Joseph, Advocate attended the hearing on behalf of the company and its directors. He admitted the offence and pleaded for less penalty for the same.
9. The Officers in default during the relevant period were (1) Mr.Faizan Aziz, Director (27.08.2014 to 20.12.2019), Mr.Anirudh Shashi Coontoor, Director (27.08.2014 to 20.12.2019).
10. It was noticed that the Company and its officers are liable for a penalty as per Section 137(3) of the Companies Act 2013. Further, since the default period is between **31.12.2017 to 15.05.2018**, the penalty is based on the pre-amended provisions of sub-section (3) of Section 137 of Companies Act, 2013. Accordingly, the undersigned in exercise of the powers vested to him vide Section 454(1) & (3) of Companies Act 2013 considering the **delay of 137 days**, hereby impose a penalty of **Rs.1,37,000/- on the Company and on the officers in default, namely, (1) Mr. Faizal Aziz, Director of Rs.1,00,000/- and (2) Mr. Anirudh Shashi Coontoor of Rs. 1,00,000/- (totaling Rs. 3,37,000/-)** and instructed them that they shall pay from their own sources through MCA 21 portal and proof of payment be produced for verification and also Form INC-28 should be filed along with copy of payment challans and copy of this order within 60 days from the date of receipt of order.

11. Whereas sub-section (5) of section 454 of the Companies Act, 2013 provides that any person aggrieved by an order made by the adjudicating officer under sub-section (3) may prefer an appeal to the Regional Director having jurisdiction in the matter.
12. Every appeal under Sub-section (5) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer received by the aggrieved person and shall in such form, manner and be accompanied by such fees as may be prescribed.
13. Please note that as per Section 454(8)(i), where a company fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be, within a period of ninety days from the date of the receipt of the copy of the order, the company shall be punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakh rupees.
- (ii) Where an officer of a company or any other person who is in default fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be, within a period of ninety 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.

In case of default in payment of penalty, prosecution will be filed under section 454(8)(i) and (ii) of the Companies Act 2013 at your own costs without any further notice.

(C.V.SAJEEVAN)
REGISTRAR OF COMPANIES
KARNATAKA

No. ROCB/ Adj. Order /Sec.454- 137/Co. No.76073/2019-2020

- (1) M/S METARAIN DISTRIBUTORS PRIVATE LIMITED
No.309/1, 4th Floor, Survey No. 1352,
CMC No. 468, BBMP No. 18,
Roopena Agrahara
Near Silk Board
Bangalore KA 560068.

No. ROCB/ Adj. Order /Sec.454- 137/Co. No.76073/2019-2020

- (2) MR.FAIZAN AZIZ,DIRECTOR
NO.188(42)D COSTA SQUARE, 2ND CROSS COOKE TOWN
DCOSTA CAFÉ, WHEELER ROAD
EXTENSION, BANGALORE 560084

No. ROCB/ Adj. Order /Sec.454- 137/Co. No.76073/2019-2020

- (3) MR. ANIRUDH SHASHI CONTOOR, DIRECTOR
#G6, ARCHITA-3, 18TH CROSS, IDEAL HOMES TOWNSHIP
OPP. BESCOM, HALAGEVADERAHALLI,
RAJARAJESHWARI NAGAR,
BANGALORE-560098, Karnataka