

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Corporate Affairs

NOTIFICATION

New Delhi, Dated_____

G.S.R. (E).- In exercise of the powers conferred by section 454 read with section 469 of the Companies Act, 2013, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement. - (1) These rules may be called the Companies (Adjudication of Penalties) Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. (1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Companies Act, 2013 (18 of 2013);

(b) "Annexure" means the Annexure enclosed to these Rules;

(c) "Fees" means fees as prescribed in the Companies (Registration Offices and Fees) Rules, 2014;

(d) "Form" or "e-Form" means a form set forth in Annexure to these rules which shall be used for the matter to which it relates;

(e) "Regional Director" means the person appointed by the Central Government in the Ministry of Corporate Affairs as a Regional Director;

(f) "section" means section of the Act;

(2) Words and expressions used in these rules but not defined, and defined in the Act or in the Companies (Specification of definitions details) Rules, 2014 shall have the meanings respectively assigned to them in the Act or in the said Rules.

3. Adjudication of penalties.- (1) The Central Government may appoint any of its officers, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of the Act.

(2) Before adjudging penalty, the adjudicating officer shall issue a written notice to the company and to every officer of the company who is in default, to show cause, within such period as may be specified in the notice (not being less than fifteen days and more than forty five days from the date of service thereon), why the inquiry should not be held against him:

Provided that every notice issued under this sub-rule, shall clearly indicate the nature of non-compliance or default under the Act alleged to have been committed or made by such company and officer in default, as the case may be:

Provided further that the adjudicating officer may, for reasons to be recorded in writing, extend the period referred to above by a further period not exceeding fifteen days, if the company or officer (as applicable) satisfies the said officer that it has sufficient cause for not responding to the notice within the stipulated period.

(3) If, after considering the cause, if any, shown by such company or officer, the adjudicating officer is of the opinion that an inquiry should be

held, he shall issue a notice fixing a date for the appearance of such company, through its authorised representative, or officer of such company whether personally or through his authorised representative

(4) On the date fixed for hearing and after giving a reasonable opportunity of being heard to the person(s) concerned, the adjudicating officer may, subject to reasons to be recorded in writing, pass any order as he thinks fit including an order for adjournment of the hearing to a future date.

(5) Every order passed under sub-rule (4), shall be dated and signed by the adjudicating officer.

(6) The adjudicating officer shall send a copy of the order passed by it to the concerned company or officer who is in default and to the Central Government.

(7) While holding an inquiry, the adjudicating officer shall have the following powers, namely:-

(a) to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case;

(b) to order for evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry.

(8) If any person fails, neglects or refuses to appear as required under sub-rule (7) before the adjudicating officer, the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so.

(9) While adjudging quantum of penalty, 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 the default;
- (b) the amount of loss caused to an investor or group of investors or creditors as a result of the default;
- (c) the repetitive nature of the default.

(10) All sums realised by way of penalties under the Act shall be credited to the Consolidated Fund of India.

4. Appeal against the order of adjudicating officer. - (1) Every appeal against the order of the adjudicating officer shall be filed in writing with the Regional Director having jurisdiction in the matter within a period of sixty days from the date of receipt of the order of adjudicating officer by the aggrieved party, in Form **ADJ** setting forth the grounds of appeal and shall be accompanied by a certified copy of the order against which the appeal is sought:

Provided that where the party is represented by an authorised representative, a copy of such authorisation in favour of the representative and the written consent thereto by such authorised representative shall also be appended to the appeal:

Provided further that an appeal in Form **ADJ** shall not seek relief(s) therein against more than one order unless the reliefs prayed for are consequential.

(2) Every appeal filed under this rule shall be accompanied by such fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

5. Registration of appeal.- (1) On the receipt of an appeal, office of the Regional Director shall endorse the date on such appeal and shall sign such endorsement.

(2) If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number:

Provided that where the appeal is found to be defective, the Regional Director may allow the appellant such time, not being less than fourteen days following the date of receipt of intimation by the appellant from the Regional Director about the nature of the defects, to rectify the defects and if the appellant fails to rectify such defects within the time period allowed as above, the Regional Director may by order and for reasons to be recorded in writing, decline to register such appeal and communicate such refusal to the appellant within a period of seven days thereof:

Provided further that the Regional Director may, for reasons to be recorded in writing, extend the period referred to in the first proviso above by a further period of fourteen days if an appellant satisfies the Regional Director that the appellant had sufficient cause for not rectifying the defects within the period of fourteen days referred to in the first proviso.

6. Disposal of appeal by Regional Director.- (1) On the admission of the appeal, the Regional Director shall serve a copy of appeal upon the adjudicating officer against whose order the appeal is sought along-with a notice requiring such adjudicating officer to file his reply thereto within

such period, not exceeding twenty-one days, as may be stipulated by the Regional Director in the said notice:

Provided that the Regional Director may, for reasons to be recorded in writing, extend the period referred to in sub-rule (1) above for a further period of twenty-one days, if the adjudicating officer satisfies the Regional Director that he had sufficient cause for not being able to file his reply to the appeal within the above-said period of twenty-one days.

(2) A copy of every reply, application or written representation filed by the adjudicating officer before the Regional Director shall be forthwith served on the appellant by the adjudicating officer.

(3) The Regional Director shall notify the parties, the date of hearing of the appeal which shall not be a date earlier than thirty days following the date of such notification for hearing of the appeal.

(4) On the date fixed for hearing the Regional Director may, subject to the reasons to be recorded in writing, pass any order as he thinks fit including an order for adjournment of the hearing to a future date.

(5) In case the appellant or the adjudicating officer does not appear on the date fixed for hearing, the Regional Director may dispose of the appeal *ex-parte*:

Provided that where the appellant appears afterwards and satisfies the Regional Director that there was sufficient cause for his non-appearance, the Regional Director may make an order setting aside the *ex-parte* order and restore the appeal.

(6) Every order passed under this rule shall be dated and signed by the Regional Director.

(7) A certified copy of every order passed by the Regional Director shall be communicated to the adjudicating officer and to the appellant forthwith and to the Central Government.

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FORM NO. ADJ**Memorandum of Appeal**

[Pursuant to Section 454(5) of the companies Act, 2013 and rule 4(1) of the Companies (Adjudication of Penalties) Rules, 2014]



सत्यमेव जयते

Form language English Hindi

Refer the instruction kit for filing the form.

**Before the Regional Director
In the matter of the Companies Act, 2013
And**

In the matter of appeal against the order made on by

1. *Category of Appellant

2. *Corporate identity number (CIN) or Foreign Company registration number (FCRN)

3. (a) Name of the company
(b) Address of the registered office or principal place of business in India

(c) email id of the company

4. Details of appellant

(a) *DIN/PAN/Passport number

(b) *Name

(c) Address *Line I

Line II

(d) *City

(e) *State

(g) Country

(h) *Pin Code

(i) *email id

5. * Details of the respondent

(a) Adjudicating officer

Specify 'Others'

(b) Address

6. * Section under which penalty was imposed

7. * Penalty imposed (Amount in Rupees)

8. * Reason for Penalty

9. Details of imprisonment (if any)

10. Specify the relevant Form number (if any)

11. SRN of the form specified above

12. * Synopsis of case

13. * Grounds of appeal

14. * Relief sought

15. *Interim relief sought(if any)

16. *Date of issuing certified copy of Penalty order

17. Due date by which the order has to be filed

18. Delay in days

19. Reason for delay in filing the order

20. Details of the Condonation given(if any)

21. *Jurisdiction of Regional Director

The appellant declares that the subject matter of appeal falls within the jurisdiction of the Regional Director.

Attachments

- 1. * Certified copy of the order against which appeal is sought;
- 2. Copy of authorization in favor of authorized representative;
- 3. Order of condonation of delay;
- 4 . Optional attachment(s), if any.

Attach
Attach
Attach
Attach

Declaration

- I am authorized by the Board of Directors of the Company vide resolution number Dated to sign this form and declare that all the requirements of The Companies Act, 2013 and the rules made thereunder.
- I am filing this form in my individual capacity as Officer in default in the captioned matter and hereby certify that all the requirements of The Companies Act, 2013 and rules made there under have been complied within respect of subject matter of this form.
- I also certify that all the information given hereinabove is true, correct and complete including the attachments to this form and nothing material has been suppressed.
- It is further declared that no other appeal, suit, civil revision or any other legal proceedings is pending before any authority on the similar matter.

*To be digitally signed by DSC Box

*Category

*PAN of the Authorized representative; or DIN/PAN or passport number of the appellant; or DIN of the director; or DIN or PAN of the manager or CEO or CFO; or Membership number of the Company Secretary

Note: Attention is also drawn to provisions of Section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

For office use only :

eForm Service request number (SRN)

eForm filing date

(DD/MM/YYYY)

Digital signature of the authorising officer

This e-Form is hereby approved

This e-Form is hereby rejected

Date of signing

(DD/MM/YYYY)

F. No. 1/25/2013-CL-V

Renuka Kumar
Joint Secretary to the Government of India