

भारत सरकार

कारपोरेट कार्य मंत्रालय

कार्यालय कम्पनी रजिस्ट्रार, बिहार

चौथा तल, 'ए' विंग, मौर्या लोक कम्प्लेक्स

डाक बंगला रोड, पटना-८००००१

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Government of India

Ministry of Corporate Affairs

Office of the Registrar of Companies, Bihar

4th Floor, 'A' Wing, Maurya Lok Complex

Dakbungalow Road, Patna-800001

☎ (0612)- 2216150/2950121

संख्या/No.: ROC/PAT/SCN/sec. 12/11535/ 1962

दिनांक/Date: 20.03.2024

Order for penalty for violation of section 12(1) r/w 12(4) of the Companies Act, 2013

M/S. SHYAM SUNIL CONSTRUCTION INDIA LIMITED

CIN: U45200BR2005PLC011535

Appointment of Adjudication Officer:-

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 (herein after known as Act) read with Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

Company:-

2. Whereas Company M/s. Shyam Sunil Construction India Limited, CIN- U45200BR2005PLC011535 (herein after known as Company) is a registered company with this office under the provisions of the Companies Act, 2013 (or previous Acts in force, as applicable) having its registered office situated at Balbhadrapur, Laheriasarai Na, Darbhanga, Bihar, 000000, India as per MCA website.

Facts about the case:-

3. **WHEREAS** office of the Registrar of Companies, Bihar-cum-Official Liquidator, High Court, Patna, has issued notice u/s. 206(1) of the Companies Act, 2013 dated 10.01.2024 to the company and its directors, the said letter addressed to the company is returned undelivered in this office with postal remarks "Item Returned Addressee Left without instructions". Therefore, it appears that the company is not maintaining its registered office as required under section 12(1) of the Companies Act, 2013.
4. Whereas this office has issued show cause notice for the violation of section 12 of the Companies Act 2013, vide letter no. ROC/PAT/SCN/Sec.12/11535/1497-1500 dated 12.02.2024 to the company and its directors, but no reply has yet been received from them. However, it is observed that the said letter/SCN addressed to the company was returned undelivered with the postal remark "Item Returned Addressee Left without instructions". In view of the aforesaid remarks of the postal authority, it is clear that the registered office of the company as notified with the Registrar is not capable of receiving and acknowledging all communications and notices. Hence, it appears that the provisions of Section 12 of the Companies Act, 2013 have been contravened by the company and its officers/managing director and therefore they are liable for penalty u/s 12(8) of the Companies Act, 2013.

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

Section 12(1) - "A company shall, on and from the thirtieth day of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be prescribed".

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 thirty days of the change, who shall record the same".

Section 12(8) - If any default is made in complying with the requirement 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".

6. Further Section 446B states that "if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be".

7. As per clause 85 of section 2 of the Companies Act, 2013, small company means a company whose paid up capital and turnover shall not exceed rupees four crore and rupees forty crore respectively. As per MCA portal, paid up capital of the company- Shyam Sunil Construction India Limited is Rs. 4,00,00,000/- and the turnover of the company is Rs.63,895.00/- as per Financial Years 2022-2023. Therefore, the benefits of small company are extended to this noticee while adjudicating penalty.

ORDER

8. Having considered the facts and circumstances of the case and after taking into account the factors above I hereby impose a penalty of Rs. 30,500 (Thirty Thousand Five Hundred) on the company and Rs. 30,500 (Thirty Thousand Five Hundred) each on the 3 (three) directors/officers in default of the company as per Table below under section 12(8) of the Act for failure in compliance of section 12(1) and 12(4) of the Companies Act, 2013.

Nature of default	Violation under Companies Act, 2013	Name of person on whom penalty imposed	No. of days of default*	Per day Penalty for default (Rs.)	Total Penalty (Rs.) (maximum of one lakh rupees)	Final Penalty Imposed (Rs.) (As per section 446B: penalty shall not be more than one half of the penalty specified in such sections)
Registered office is not capable of receiving communications	Section 12(1) of the Companies Act, 2013	On Company	61	1000	61*1000=61,000	30500
		On Shri Shyam Kishor Ray	61	1000	61*1000=61,000	30500
		On Shri Rishi Raj	61	1000	61*1000=61,000	30500
		On Shri Kumar Aman	61	1000	61*1000=61,000	30500

[*No of days have been calculated from 20.01.2024 (date of item returned) till 20.03.2024 (date of order)]

9. The noticee shall pay the amount of penalty individually for the company and its directors (out of own pocket) by way of e-payment (available on Ministry website www.mca.gov.in) under "Pay miscellaneous fees" category in MCA fee and payment Services within 90 (ninety) days of this order. The Challan/SRN generated after payment of penalty through online mode shall be forwarded to this office.
10. Appeal against this order may be filed in writing with the Regional Director (ER), Ministry of Corporate Affairs, Kolkata, within a period of 60 (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 this order {Section 454(5) & 454(6) of the Act, read with Companies (Adjudication of Penalties) Rules, 2014}.
11. Your attention is also invited to section 454(8) of the Act in the event of non-compliance with this order.



(Aparajit Barua)
Adjudicating Officer &
Registrar of Companies-Cum-
Official Liquidator, Patna

To:-

- 1) Shyam Sunil Construction India Limited,
Balbhadrapur, Laheriasarai Na,
Darbhanga, Bihar, 000000, India.
- 2) Shri Shyam Kishor Ray,
Balbhadrapur, Darbhanga, 846006, Bihar, India.
- 3) Shri Rishi Raj,
H. P. Hishra Chowk, Bhadrapur,
Laheriasarai, Darbhanga, 846001, Bihar, India.
- 4) Shri Kumar Aman,
Vill-Champa, Ward No.3, Parjuar,
Madhubani, 847229, Bihar, India.

Copy to:-

The Regional Director (ER),
Ministry of Corporate Affairs,
234/4 A.J.C. Bose Road, 2nd MSO Building,
2nd Floor, Kolkata 700020, for information please.