

भारत सरकार  
कार्पोरेट कार्य मंत्रालय  
कार्यालय कंपनीज़ रजिस्ट्रार, दिल्ली एवं हरियाणा  
चतुर्थ तल, आई.एफ़.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  
4<sup>TH</sup> FLOOR, IFCI TOWER, 61, NEHRU PLACE,  
NEW DELHI -110019

**ADJUDICATION ORDER OF PENALTIES FOR VIOLATION OF SECTION 10A OF THE COMPANIES ACT, 2013 IN THE MATTER OF 5B INDUSTRIES INDIA PRIVATE LIMITED (CIN: U71200DL2023PTC414691)**

**1. Appointment of Adjudicating Officer: -**

Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad.II, dated 24.03.2015 appointed Registrar of Companies, NCT of Delhi & Haryana as Adjudicating Officer in exercise of the powers conferred by section 454(1) of the Companies Act, 2013 (hereinafter known as Act) r/w Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

**2. Company: -**

Whereas the company namely **5B INDUSTRIES INDIA PRIVATE LIMITED** (herein after known as 'company') incorporated under the Companies Act, 2013 on 26.05.2023 having its registered office as per MCA21 Registry at address **C-42 Mayfair Gardens Hauz Khas, New Delhi, South West Delhi, Delhi, 110016, India**. Financials are not due, however as per records available on MCA-21 portal, other details of the subject company is stated as under:

S. No.	Particulars	Details
1.	Paid up capital	Rs. 8,19,31,000
2.	a. Revenue from operation	-
	b. Other Income	-
	c. Profit for the Period	-
3.	Holding Company	NO
4.	Subsidiary Company	NO
5.	Whether company registered under Section 8 of the Act?	NO

6.	Whether company registered under any other special Act?	NO
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### 3. Facts about the Case: -

- I. This office is in receipt of application on 14.03.2024 (GNL-1 F93370922) from the company for adjudication of penalties for default u/s 10A of the Act.
- II. As per the application, the following submissions were given:-
  - (a) The company was incorporated on 26.05.2023 with two subscribers, namely, 5B Maverick Special Unit VIA Pty Ltd and 5B Maverick Special Unit VIB Pty Ltd, who agreed to subscribe to 81,93,100 equity shares of INR 10 each. The brief details of the subscribers to the Memorandum of Association are provided herein below:

S. No	Name of the Subscribers	Address of the Subscribers	No. of shares subscribed	Amount (In INR)
1	5B Maverick Special Unit VIA Pty Ltd	34 Kent Road, Mascot, NSW 2020	40,96,550	4,09,65,500
2	5B Maverick Special Unit VIB Pty Ltd	34 Kent Road, Mascot, NSW 2020	40,96,550	4,09,65,500
<b>Total</b>			<b>81,93,100</b>	<b>8,19,31,000</b>

- (b) The above-mentioned subscribers took some time to arrange for the funds required to be infused and they could not send the money until 26.02.2024, which is beyond the stipulated timeline of 180 days.
  - (c) The delay in remitting the funds has resulted in the delayed submission of e- form INC 20A which has been filed only on 01.03.2024 vide SRN AA6977707 with a delay of 100 days commencing from the due date i.e. 22.11.2023.
- III. In view of above, an SCN was issued to the company and its officers in default on 13.06.2024 for the non-compliance of the provisions of section 10A of the Act. In response to which a reply was submitted vide letter dated 27.06.2024. It is reiterated by company that the said default was unintentional and requested to pass an appropriate order.

**4. The relevant provision of section 10A. Commencement of business, etc.—**

(1) *A company incorporated after the commencement of the Companies (Amendment) Act, 2019 and having a share capital shall not commence any business or exercise any borrowing powers unless—*

(a) *a declaration is filed by a director within a period of one hundred and eighty days of the date of incorporation of the company in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and*

(2) *If any default is made in complying with the requirements of this section, the company shall be liable to a penalty of fifty thousand rupees and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues but not exceeding an amount of one lakh rupees.*

**5. Adjudication of penalty: -**

- I. Taking into account the facts of the case including the submissions made, it is noted that there is a violation of Section 10A(1) of the Act and the same has been admitted by the company and its officers. The penal provision for the default is provided under Section 10A(2) of the Act.
- II. Now in exercise of the powers conferred on the undersigned vide Notification dated 24th March, 2015 and having considered the application and reply submitted, I hereby impose the penalties as under:

**TABLE- I**

<b>Violation</b>	<b>Penalty imposed on company/director(s)</b>	<b>Period of default</b>	<b>Calculation of penalty in term of section 10A(2) (in INR)</b>	<b>Penalty imposed (in INR)</b>
<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Violation of Section 10A of Companies Act	5B INDUSTRIES INDIA PRIVATE LIMITED <b>(Company)</b>	100 days	50000	50,000
	Rajendra Shrivastav <b>(Director)</b>	100 days	1000x100 = 1,00,000 subject to maximum 1,00,000	1,00,000

	Eden James Tehan (Director)	100 days	1000x100 = 1,00,000 subject to maximum 1,00,000	1,00,000
	Christopher Neil Mcgrath (Director)	100 days	1000x100 = 1,00,000 subject to maximum 1,00,000	1,00,000

**6. Order:**

- a. Names of parties as mentioned above in **Table I** hereby directed to pay the penalty amount as per column no. 'E' therein. In case of parties other than company, such amount is required to be paid out of their own funds.
- b. The said amount of penalty shall be paid through online by using the website [www.mca.gov.in](http://www.mca.gov.in) (Misc. head) in favor of "Pay & Accounts Officer, Ministry of Corporate Affairs, New Delhi, within **90 days of receipt of this order, and intimate this office with proof of penalty paid.**
- c. Appeal against this order may be filed 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](http://www.mca.gov.in)] setting forth the grounds of appeal and shall be accompanied by a certified copy of the order. [Section 454(5) & 454(6) of the Act read with Companies (Adjudicating of Penalties) Rules, 2014].
- d. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.

Place: New Delhi

(Pranay Chaturvedi, ICLS)  
(Adjudicating Officer)  
Registrar of Companies,  
NCT of Delhi & Haryana

No. ROC/D/Adj/Section 10A/5B Industries/2635-2639

Date: 02.07.2024

To,

1. 5B INDUSTRIES INDIA PRIVATE LIMITED  
C-42 Mayfair Gardens Hauz Khas, New Delhi, South West  
Delhi, Delhi, 110016, India.
2. RAJENDRA SHRIVASTAV  
Flat-374, Shriniketan CGHS, Sector-7 Plot No, 1 New Delhi, 110075, Delhi, India

3. EDEN JAMES TEHAN  
C/o Company C-42 Mayfair Gardens Hauz Khas, New Delhi, South West  
Delhi, Delhi, 110016, India.
4. CHRISTOPHER NEIL MCGRATH  
C/o Company C-42 Mayfair Gardens Hauz Khas, New Delhi, South West  
Delhi, Delhi, 110016, India.

**Copy to:**

Regional Director (NR), Ministry of Corporate Affairs, B-2 Wing, 2nd Floor,  
Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003.