



भारत सरकार

कार्पोरेट कार्य मंत्रालय

कार्यालय कम्पनी रजिस्ट्रार, गुजरात, दादरा एवं नगर हवेली

आर.ओ.सी. भवन, रुपल पार्क के सामने,

अंकुर बस स्टैंड के पास, नारनपुरा, अहमदाबाद (गुजरात) - 380013.

दूरभाष संख्या : 079 27438531, फैक्स नं. : 079-27438371

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सत्यमेव जयते

GOVERNMENT OF INDIA

MINISTRY OF CORPORATE AFFAIRS

OFFICE OF THE REGISTRAR OF COMPANIES,

GUJARAT, DADRA & NAGAR HAVELI

ROC Bhavan, Opp. Rupal Park,

Nr. Ankur Bus Stand, Naranpura, Ahmedabad (Gujarat) - 380013.

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SPEED-POST

NO. ROC-GJ/203/ADJ-Order/Sec. 454/ GANESH GREEN/2024-25/ Dated:

1435-137

11 JUL 2024

BEFORE THE ADJUDICATING OFFICER

REGISTRAR OF COMPANIES, GUJARAT, DADRA & NAGAR HAVELI

ORDER FOR PENALTY FOR DEFAULT OF SECTION 135(5) OF THE COMPANIES
ACT, 2013 IN THE MATTER OF GANESH GREEN BHARAT LIMITED
(U31900GJ2019PLC108417)

Date of hearing- 10.07.2024

PRESENT :

1. Shri Keerthi Thej N. (ROC), Adjudicating Officer
2. Ms. Rupa Sutar (DROC), Presenting Officer
3. Shri Vijay S. Tiwari (STA)

12/07/24

प्राप्त दिनांक.....

Received Date:.....

प्रादेशिक निदेशक कार्यालय, उ.प.क्षे., अहमदाबाद

G/o. Regional Director, NWR, Ahmedabad

कार्पोरेट कार्य मंत्रालय

Ministry of Corporate Affairs

समग्री सत्यापित नहीं है। Contents not verified

Company/ Officers/Directors/KMP/Authorized Representative : Mr. Nirav
Soni, Proprietor of Nirav Soni & Co., Company Secretaries, Authorised
representative of the Company/Officers

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. The company viz. GANESH GREEN BHARAT LIMITED (herein after referred to as "company") is a registered company under the provisions of the Companies Act, 2013 (hereinafter referred to as "Act") in the State of Gujarat having its registered office at "F - 202. S.G. Business Hub, S.G. Highway, NA, Ahmedabad, Gujarat-382470, India". The CIN of the Company is

IN THE MATTER OF GANESH GREEN BHARAT LIMITED FOR DEFAULT OF SECTION 135 OF THE COMPANIES ACT, 2013

U31900GJ2019PLC108417. The Financial and other details of the subject company for the year ended 31.03.2023 as available on MCA21 portal is stated as under:

S.No.	Particulars	Details
1	Paid up capital as per Master data/ latest audited Financial Statement	Rs. 18,21,00,000
2	Turnover as per latest audited Financial Statement	Rs. 85,32,41,856
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
7	Whether company is a small company?	No
8	Whether Section 446B is applicable to the company (lesser penalties for certain companies)?	No

Facts of the case

3. The company and Applicants namely Mr. Ketanbhai Narsingbhai Patel, Rajendrakumar Narsinhbhai Patel and Shri Niravkumar Sureshbhai Patel, Directors of the Company have filed a joint application dated 03.06.2024 under Section 454 of the Companies Act, 2013 citing default Section 135 of the Companies Act, 2013 received in this office on 04.06.2024. The company has also submitted online application in GNL-1 vide SRN F93170694 dated 11.03.2024 under the MCA21 portal in the matter.

The submission made by the Applicants are as under:

- a. The offence committed by the company pertains to non transfer of unspent amount of Rs. 19,36,064.00 pertaining to financial year 2021-22 to a Fund specified in Schedule VII to the Companies Act, 2013 within a period of six months of the expiry of the financial year in compliance with second proviso to sub-Section 135 of the Companies Act, 2013".
- b. The offence committed by the company pertains to non transfer of unspent amount of Rs. 23,31,842.00 pertaining to financial year 2022-23 to a Fund specified in Schedule VII to the Companies Act, 2013 within a period of six months of the expiry of the financial year in compliance with second proviso to sub-Section 135 of the Companies Act, 2013". The Applicant has paid all the shortfall of F.Y. 2021-22 and

2022-23 towards CSR expenditure by way of contribution of Rs. 42,67,906.00 to the Shree Brahmani Charitable Trust on 5th December, 2013.

- c. The Applicant has filed the Suo-moto application of Adjudication for Section 135 of the Companies Act, 2023.
- d. It is stated that the aforesaid contravention had arisen only due to oversight of the Directors. It was without any mala fide motive and it is unintentional. The company further declares that the nature of offence is such that it has not affected public interest in any way.
- e. The aforesaid default was without any mala fide intention or vested purpose and had no deliberate intention in violating the provisions of Section 135 of the Act.
- f. There is no undue gain either to the Applicant Company or to the Director because of the said default. Hence, with a view to put the matter to rest, this application is preferred.
- g. The offence is adjudication under Section 454 of the Act.
- h. The application has been made bonafide and in the interest of justice.
- i. The Applicant further declare that no enquiry, inspection or investigation has ever been initiated under the Companies Act, 2013 against the company or any of its directors.

Show Cause Notice & reply of the Company:-

4. Pursuant to the application dated 04.06.2024 received in this office under Section 454 of the Act read with Companies (Adjudication of Penalty) Rules, 2014, this office had issued Adjudication Hearing Notice to Company and Whole Time Director Mr. Rajendrakumar Narsinhbhai Patel on 10.06.2024 fixing the date of hearing on 19.06.2024 at 03.00 P.M. with directions to serve the aforesaid Notice to all the members/ Board of Directors and all principal Officers of the Company to ensure due compliance of the Companies Act, 2013 and to submit a reply to this office.
5. An e-mail dated 18.06.2024 received from Mr. Nirav Soni, Proprietor of Nirav Soni & Co., Company Secretaries, Authorised representative of the Company/Officers in the O/o ROC, Ahmedabad. He submitted in the aforesaid

mail that "Due to unavoidable circumstances I am not able to present before you as mentioned the Date and time, I hereby request you kindly allow me the Date after 10/15 days for the next appearance". Accordingly, the date of the hearing was rescheduled to 10.07.2024 at 11.30 AM in the best interest of justice. Accordingly, an intimation regarding the hearing was sent vide e-mail dated 27.06.2024 to the Authorised representative of the Company/Officers.

6. On the scheduled date of hearing i.e. 10.07.2024, Mr. Nirav Soni, Proprietor of Nirav Soni & Co., Company Secretaries, Authorised representative of the Company/Officers appeared before the Adjudicating Authority Mr. Keerthi Thej N., ROC, Presenting Officer Ms. Rupa Sutar, DROC and Mr. V.S. Tiwari, STA and submitted that "the company had filed the application in E-form GNL-3 for particulars of person(s) charged for the purpose of sub-clause (iii) or (iv) of clause 60 of Section 2 pursuant under the Rule 12(3) of the Companies (Registration Offices and Fee) Rules, 2014 and authorised to charge to Mr. RAJENDRAKUMAR NARSINHBHAI PATEL (one of the Applicant) for the all the provisions of the Companies Act, 2013, the consent for charged signed on 7th July 2022". He further requested to adjudicate the non-compliance of Section 135(5) of the Companies Act, 2013.

Submission of Presenting Officer:

7. The Presenting Officer submitted the relevant provisions of Section 135 of the Companies Act, 2013 as under:

(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial year, or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134,

specify the reasons for not spending the amount and, unless the unspent amount relates to any ongoing project referred to in sub-section (6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.

(7) If a company is in default in complying with the provisions of sub-section (5) or sub section (6), the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.

8. The presenting officer further submitted that Total CSR obligation for the financial year 2021-22 was Rs 27,91,932.00, whereas in the application the Applicants have submitted that the offence committed by the company pertains to non transfer of unspent amount of Rs. 19,36,064 for the Financial year 2021-22.

An extract from the Financial Statement of the subject company for FY 20-21 is reproduced as under:

GANESH ELECTRICALS PRIVATE LIMITED Standalone Financial Statements for period 01/04/2021 to 31/03/2022

Unless otherwise specified, all monetary values are in INR

	01/04/2021 to 31/03/2022
Disclosure of corporate social responsibility explanatory [TextBlock]	Textual information (17) [See below]
Whether provisions of corporate social responsibility are applicable on company	Yes
Disclosure of composition of CSR committee [TextBlock]	Textual information (18) [See below]
Whether company has written CSR policy	Yes
Details CSR policy [TextBlock]	As per Report
Average net profit for last three financial years	1,395.97
Prescribed CSR expenditure	27.92
Amount CSR to be spent for financial year	0
Amount CSR spent for financial year	0
Amount spent in local area	0
Amount spent on construction/acquisition of any asset in cash	0
Amount spent on construction/acquisition of any asset yet to be paid in cash	0
Total amount spent on construction/acquisition of any asset	0
Amount unspent CSR	27.92
Details of implementing agency	NOT SPENT

In view of the above, it appears that in the application amount of CSR is wrongly mentioned as Rs. 19,36,064 instead of Rs. 27,91,932. Hence, the unspent amount of CSR should be reckoned for the F.Y. 2021-22 as Rs. 27,91,932 instead of 19,36,064. The Company has contributed the unspent CSR amount of Rs. 19,36,064 and Rs. 23,31,842 for the financial year 2021-22

IN THE MATTER OF GANESH GREEN BHARAT LIMITED FOR DEFAULT OF SECTION 135 OF THE COMPANIES ACT, 2013

and 2022-23 on 05.12.2023 respectively, so the Company and its officers have violated the provisions of the aforesaid Rules, liable to be penalized under Section 135(7) of the Companies Act, 2013.

9. The details of Directors showing in the MCA21 portal records are as under:

DIN/PAN	Name	Current Designation	Date of appointment at current designation	Date of Cessation
07498377	NIRAVKUMAR SURESHBHAI PATEL	Director	30.05.2019	24.10.2023
07498377	NIRAVKUMAR SURESHBHAI PATEL	Wholetime Director	25.10.2023	
07498445	RAJENDRAKUMAR NARSINHBHAI PATEL	Director	30.05.2019	24.10.2023
07498445	RAJENDRAKUMAR NARSINHBHAI PATEL	Wholetime Director	25.10.2023	
07499411	KETANBHAI NARSINHBHAI PATEL	Director	30.05.2019	24.10.2023
07499411	KETANBHAI NARSINHBHAI PATEL	Managing Director	25.10.2023	
08132442	SAHIL BIPIN GALA	Director	25.10.2023	
08467647	Dhanjibhai Narsinhbhai Patel	Director	30.05.2019	11.11.2019
10168539	PALAK JAGATBHAI SHAH	Director	25.10.2023	
10316276	SHILPABEN KETANBHAI PATEL	Director	25.10.2023	
AFTPJ9217Q	PALAKBEN MAHESH JOSHI	Company Secretary	25.10.2023	
AMTPD5352M	KRUNALKUMAR DAYALJIBHAI SHAH	CFO(KMP)	25.10.2023	

10. The Presenting officer further stated that as per the submissions made by Mr. Nirav Soni, PCS that Mr. Rajendrakumar Narsinhbhai Patel is only person who was the sole responsible for non-compliance of Section 135(5) of the Act may be considered as he had given his consent for charge signed under Section 2(60) of the Companies Act, 2013 w.e.f. 07.07.2022 whereas the non-compliance of Section 135(5) was instituted from the period from 01.10.2022 and 01.10.2023 to 05.12.2023 for the financial year 2021-22 and 2022-23 respectively. Thus, the company and the responsible Personal Mr. Rajendrakumar Narsinhbhai Patel have themselves liable to penalize under section 135(7) of the Companies Act, 2013 for non-compliance of Section 135(5) of the Companies Act, 2013 from 01.10.2022 to up to 06.07.2022.

ORDER

1. While adjudging quantum of penalty under section 135(7) 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.
2. 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 noticee 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.
3. Having considered the facts and circumstances of the case and after taking into accounts the factors above, the undersigned has reasonable cause to believe that the company and its officers in default have failed to comply with the provisions of Section 135(5) of the Companies Act, 2013 in the aforementioned circumstances. It is due and justified to levy penalty on company and Officers in default. I hereby imposed penalty as per table below:

Penalty on company and Officers in default for the aforesaid default are as under:

Nature of default	Name of the company/Director	Default for the Financial Year	Penalty prescribed as per Section 135(7) of the Act	Penalty calculated pursuant to Section 135(7) of the Companies Act, 2013	Penalty Imposed (In Rs.)
Violation of Section 135(5) of the Companies Act, 2013	GANESH GREEN BHARAT LIMITED	2021-22	twice the amount to be transferred or one crore whichever is less	2*27,91,932= 55,83,864 or 01 crore whichever is less	55,83,864
		2022-23	whichever is less	2*23,31,842= 46,63,684 or 01 crore whichever is less	46,63,684
Total					Rs. 1,02,47,548
	Mr. Rajendrakumar Narsinhbhai Patel	2021-22	one-tenth of the amount or two lakh rupees,	27,91,932/10= 2,79,193,20 or 2 Lakhs whichever is less	2,00,000

IN THE MATTER OF GANESH GREEN BHARAT LIMITED FOR DEFAULT OF SECTION
135 OF THE COMPANIES ACT, 2013

	2022-23	whichever is less	23,31,842/10= 2,33,144.20 or 2 Lakhs whichever is less	2,00,000
Total				Rs. 4,00,000

AO is of the opinion that penalty is commensurate with the aforesaid default committed by the Noticees:

4. The noticee shall pay the amount of penalty individually for the company and its officers from their personal sources/income by way of e-payment available on Ministry website www.mca.gov.in under "Pay miscellaneous fees" category in MCA fee and payment Services under Rule 3(14) of Company (Adjudication of Penalties) (Amendment) Rules, 2019 within 90 days from the date of receipt of this order and copy of this adjudication order and Challan/SRN generated after payment of penalty through online mode shall be filed in INC-28 under the MCA portal without further reference.
5. Appeal 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(5) & 454(6) of the Companies Act, 2013 read with the Companies (Adjudicating of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019].
6. Your attention is also invited to **Section 454(8)(i) and 454(8) (ii) of the Companies Act, 2013**, which state that in case of non-payment of penalty amount, the company shall be punishable with fine which shall not less than Twenty Five Thousand Rupees but which may extend to Five Lakhs Rupees and officer in default shall be punishable with Imprisonment which may extend to Six months or with fine which shall not be less than Twenty Five Thousand Rupees by which may extend to one Lakhs Rupees or with both.

The adjudication notice stands disposed of with this order.

Kx.
Registrar of Companies & Adjudicating Officer
Ministry of Corporate Affairs,
Gujarat, Dadra & Nagar Haveli

o/c

**IN THE MATTER OF GANESH GREEN BHARAT LIMITED FOR DEFAULT OF SECTION
135 OF THE COMPANIES ACT, 2013**

To

1. GANESH GREEN BHARAT LIMITED
F - 202. S.G. BUSINESS HUB, S.G. HIGHWAY,
NA, AHMEDABAD, GUJARAT-382470
2. MR. RAJENDRAKUMAR NARSINHBHAI PATEL
S/O SHRI NARSINHBHAI LAKHUBHAI PATEL
2 ANUSTHAN BUNGLOW,
OPP ANURAG BUNGLOW,
SOLA, AHMEDABAD-380060, GUJARAT

Kx.
REGISTRAR OF COMPANIES &
ADJUDICATING OFFICER
MINISTRY OF CORPORATE AFFAIRS
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)

slc of 10/7/24