

भारत सरकार
कारपोरेट कार्य मंत्रालय

कंपनी रजिस्ट्रार का कार्यालय, मुंबई महाराष्ट्र,
100, "एवरेस्ट", मरिन ड्राईव, मुंबई - 400002
दुरभाष / TELE : (022) 22812627, 22812645,
22813760 फैक्स / FAX : 2281 1977.



GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
OFFICE OF THE REGISTRAR OF COMPANIES,
MUMBAI, MAHARASHTRA
100, "EVEREST", MARINE DRIVE, MUMBAI - 02.
Website: www.mca.gov.in
E-Mail ID: roc.mumbai@mca.gov.in

1210 To 12/2
RD-67

राष्ट्रीय डाक सेवा
SPEED POST

ROC(M)/ADJ-89 (MGT 5)-WILLIAM HILL/JTA(AP)/2024/ RD-67 Date: 26 AUG 2024

Order for Penalty under Section 454 for violation of Section 89(1) r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014.

NIMVERGE TECH INDIA PRIVATE LIMITED

(CIN: U72200MH2022FTC388243)

(M/S WILLIAM HILL LTD- Beneficial Owner)

Adjudicating Officer: - Benudhar Mishra, ICLS, ROC, Mumbai, Maharashtra.

Presenting Officer: - Rujuta Bankar, ICLS, AROC, Mumbai, Maharashtra

Authorised person on behalf of the Company: - Shri Sourabh Shukla, PCS

APPOINTMENT OF ADJUDICATING OFFICER: -

1. Ministry of Corporate Affairs vide its Gazette Notification No A-42011/ 112/2014-Ad. II dated 24.03.2015 appointed undersigned as Adjudicating Officer in exercise of the powers conferred by section 454 of the Companies Act, 2013 [herein after referred as "the Act"] read with Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

COMPANY: -

2. WHEREAS this office has received application from M/S WILLIAM HILL LTD (foreign body corporate)- Beneficial Owner of NIMVERGE TECH INDIA PRIVATE LIMITED (U72200MH2022FTC388243) having registered office at 91/92 , Floor 09th Plot 224, B wing, Mittal Court, J.B. Marg, Nariman Point, Mumbai, Mumbai City, Maharashtra, 400021, India. for adjudication of penalties under Section 454 of the Companies Act, 2013 and Rules made thereunder for violation of Section 89(2) r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014.

FACTS ABOUT THE CASE:

3. M/S WILLIAM HILL LTD (foreign body corporate) (hereby referred as “**Beneficial Owner**”) has electronically filed E-form GNL-1 vide SRN F91603076 on 02/02/2024 with the MCA for Adjudication u/s 454 of the Companies Act, 2013 regarding adjudication of Offence Section 89(2) r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014. Further, Company through its authorised representative Nakul Pratap Singh also submitted physical copy of Adjudication application vide letter dated 06/02/2024.
4. The Applicant is a Foreign Body Corporate and holds beneficial ownership in one share of M/s Nimverge Tech India Pvt Ltd (hereby referred as “the Company”) which is a Private Limited Company incorporated on 05/08/2022 bearing CIN: U72200MH2022FTC388243 under jurisdiction of Registrar of Companies, Mumbai. The date of creation of interest by Beneficial owner in the register of the Company is 05/08/2022. The details are given below in tabular form:

Name of Beneficial owner and Registered Shareholder	Date of Creation of Interest
Beneficial Owner: William Hill Ltd	5 th August 2022 (Acquired by way of subscription to the Memorandum of Association of Nimverge Tech India Pvt Ltd and the share certificate was issued on 30 th September 2022).
Registered shareholder: William Hill Organization Ltd	

5. The Applicant in its application stated that pursuant to Section 89(2) of the Companies Act, 2013 r/w Rule 9(2) of the Companies (Management and Administration) Rules, 2014, where in a person who holds or acquires a beneficial interest in share of a company shall make a declaration to the company specifying the nature of his interest, particulars of the person in whose name the shares stand registered in the books of the company and such other particulars as may be prescribed. Such declaration shall be filed with the Company in Form No. MGT -5 within thirty days after acquiring such beneficial interest in the shares of the company.
6. The applicant in its application further stated that it had filed the declaration with the company in the Form MGT-5 on 22/06/2023 which is beyond 30 days period stipulated by law.

HEARING AND SUBMISSION OF THE COMPANY:

7. The hearing was held before Adjudicating Officer & Registrar of Companies, Mumbai on 24/06/2024 at 3:30pm. During the hearing Shri Sourabh Shukla, PCS made submission as under:

- A. Shri Shukla submitted that he has been authorised by Board vide resolution dt 05/09/2023 passed by the Registered Shareholder to represent the Registered shareholder before appropriate authorities and the instant suo moto application for adjudication for default occurred under proviso to section Section 89(2) r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014, for which penalty is prescribed under Section 89(5) of the Act.
- B. Shri Shukla submitted that the Applicant/Beneficial owner holds beneficial ownership in One share of the Company and date of creation of interest is 05/08/2022 and Share certificate was issued on 30/09/2022.
- C. As per proviso of Section 89(2) of the Act r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014 *Every person who holds or acquires a beneficial interest in share of a company shall make a declaration to the company specifying the nature of his interest, particulars of the person in whose name the shares stand registered in the books of the company and such other particulars as may be prescribed.*

However, the Applicant/Beneficial owner submitted Form MGT-5(Declaration by the beneficial owner who holds or acquires beneficial interest in shares but whose name is not entered in the register of members) to the Company on 22/06/2023 which was beyond the time limits as provided in Sec 89(2) of the Act r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014.

- D. As per proviso of Sec 89(6) of the Act, *(6) Where any declaration under this section is made to a company, the company shall make a note of such declaration in the register concerned and shall file, within thirty days from the date of receipt of declaration by it, a return in the prescribed form with the Registrar in respect of such declaration with such fees or additional fees may be prescribed.* The Company has filed declaration in Form MGT-6 vide SRN F62551841 on 19/07/2023.
- E. During the hearing, considering the foreign shareholder, the Adjudicating Authority requested to the authorised representative to submit following documents:
 - i. Copy of Form FCGPR for Initial Capital
 - ii. Register of Members under the Companies Act, 2013
 - iii. List of Shareholders of William Hill Ltd
- F. That taking into account the facts and submission made by the authorised Representative of the Applicant/Beneficial owner, it is noted that there is violation

of Sec 89(2) of the Act r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014.

8. THE RELEVANT PROVISION OF THE COMPANIES ACT, 2013 AND RULES MADE THEREUNDER ARE AS UNDER (AMENDED VIDE COMPANIES (AMENDMENT) ACT, 2017:

89. Declaration in Respect of Beneficial Interest in any Share

(1) Every person who holds or acquires a beneficial interest in share of a company shall make a declaration to the company specifying the nature of his interest, particulars of the person in whose name the shares stand registered in the books of the company and such other particulars as may be prescribed.

(5) If any person fails to make a declaration as required under sub-section (1) or sub-section (2) or sub-section (3), he shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of two hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.

Chapter VII The Companies (Management and Administration) Rules, 2014

9 Declaration in Respect of Beneficial Interest in Any Shares

(1) Every person holding and exempted from furnishing declaration or acquiring a beneficial interest in shares of a company not registered in his name (hereinafter referred to as "the beneficial owner") shall file with the company, a declaration disclosing such interest in Form No. MGT.5, within thirty days after acquiring such beneficial interest in the shares of the company:

Provided that where any change occurs in the beneficial interest in such shares, the beneficial owner shall, within a period of thirty days from the date of such change, make a declaration of such change to the company in Form No.MGT.5.

FINDINGS

9. As per proviso of Section 89(2) of the Act r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014 *Every person holding and exempted from furnishing declaration or acquiring a beneficial interest in shares of a company not registered in his name (hereinafter referred to as "the beneficial owner") shall file with the company, a declaration disclosing such interest in Form No. MGT.5, within thirty days after acquiring such beneficial interest in the shares of the company:*
10. However, the Applicant/Beneficial owner namely M/S WILLIAM HILL LTD has created interest in the register of the Company on 05/08/2022 but submitted Form MGT-5(Declaration by the beneficial owner who holds or acquires beneficial interest in shares but whose name is not entered in the register of members) to the Company on 22/06/2023 which was beyond the time limits as provided in Sec 89(2) of the Act r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014.

11. That the representative of the Company submitted the requisite documents as mentioned in para 7(E) supra vide email dated 28/06/2024 with the office.

ORDER

12. As mentioned in para (3) to (6) supra, the Applicant/Beneficial owner has created interest in the register of the Company on 05/08/2022 but submitted Form MGT-5 (Declaration by the beneficial owner who holds or acquires beneficial interest in shares but whose name is not entered in the register of members) to the Company on 22/06/2023 which was beyond the time limits as provided in Sec 89(2) of the Act r/w Rule 9(2) of Companies (Management and Administration) Rules, 2014.

13. In exercise of the powers conferred on me vide Notification dated 24th March 2015 and having considered the facts and circumstances of the case besides reply of the company after taking into account the factors mentioned in the relevant Rules followed by amendments in section 454(3) of the Companies Act, 2013, I am of the opinion that penalty shall be imposed for the default related to non-compliance of section 89(2) of the Act.

For the purpose of determination of penalty, under section 89 (5) the following table is to be considered: -

Period of Default	Penalty imposed on Director(s) / Authorised Officer of the Company.	First default Penalty in (Rs.)	Default continues Penalty in (Rs.)	Total Penalty (Rs.)	Maximum Penalty in (Rs.)
290	WILLIAM HILL LTD (Beneficial Owner)	50,000	290 X 200 = 58000	50000+58000 = 108000	5,00,000
	<u>TOTAL</u>			<u>1,08,000/-</u>	<u>5,00,000</u>

TOTAL PENALTY PAYABLE: - Rs.1,08,000/-

(■) The period of violation of provisions under Section 89(2) of the Companies Act, 2013 is from 05.09.2022 to 22.06.2023.

(■) Due date of filing the MGT-5 was 05.09.2022. Delay in days is calculated at 290 days till 22.06.2023 i.e. date of filing MGT-5 by the Applicant/Beneficial owner.

14. I am of this opinion that, the penalty is commensurate with the aforesaid failure committed by every officer of the Company.
15. The Noticee shall pay the said amount of penalty through "Ministry of Corporate Affairs" portal and proof of payment be produced for verification within 90 days of receipt of this order.
16. Please note that as per Section 454(8)(i) of the Companies Act, 2013, where company does not pay the penalty imposed by the Adjudicating Officer or the Regional Director within a period of ninety days from the date of 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.
17. Where an officer of a company who is in default does not pay the penalty within a period of ninety days from the date of the 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.
18. Therefore, 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.
19. Further, the company and its officers are hereby direct that the penalty amount shall be remitted from their own sources through MCA21 portal within 90 days from the date of receipt of order. The company needs to file INC-28 as per the provisions of the Act, attaching the copy of the adjudication order along with payment challans.
20. As per Section 454 of the Companies Act, 2013 read with the Companies (Adjudicating of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019, appeal, if any, against this order may be filed in writing with the Regional Director, Western Regional, Ministry of Corporate Affairs, within a period of 60 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.
21. In terms of the provisions of sub-rule (9) of Rule 3 of Companies (Adjudication of Penalties) Rules 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019, copy of this order is being sent to the Company and

Noticee/s and also to Office of the Regional Director, Western Region, Ministry of Corporate Affairs.



(B MISHRA)

Adjudication officer and Registrar of Companies,
Maharashtra, Mumbai.

To,

1. **MR. NAKUL PRATAP SINGH, Authorized Representative of William Hill Ltd**
P2/26 Fourth Floor, Block P,
BPTP Parklands, Sector 75,
Kheri Kalan (113),
Faridabad- 121 002, Haryana.
2. **MR. SOURABH SHUKLA, PCS, Authorized Representative of William Hill Ltd**
B-11, ANANDMAYEE SOCIETY,
NEAR ASHWAMEDH HALL, ERANDAWANE,
PUNE – 411 004.

COPY TO:

3. **M/S NIMVERGE TECH INDIA PVT LTD,**
91/92 , Floor 09th Plot 224, B wing,,
Mittal Court, J.B. Marg,
Nariman Point, Mumbai,
Mumbai City, Maharashtra, 400021, India.
4. **The Regional Director (WR).**
Ministry of Corporate Affairs,

..... For information