

**OFFICE OF THE  
REGISTRAR OF COMPANIES  
MAHARASHTRA, PUNE**

कंपनी रजिस्ट्रार का कार्यालय, पुणे  
MINISTRY OF CORPORATE AFFAIRS / कर्पोरेट कार्य मंत्रालय  
GOVERNMENT OF INDIA / भारत सरकार

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सत्यमेव जयते

RoCP/ADJ/order/CLAIR/135/24/1307 to 1311 Date: 21 AUG 2024

**SPEED POST**  
**ADJUDICATION ORDER**

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**Adjudication Order of penalties in the matter CLAIRVOYANT INDIA  
PRIVATE LIMITED (U72200PN2014FTC153250) under Section 454(3) of  
the Companies Act, 2013 for violation of Section 135(1)/135(5) of the  
Companies Act, 2013**

**Please Read:**

- Companies (Adjudication Of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019 (G.S.R.131(E) ).
- Provisions of sub-section (1) and (5) of Section 135 of the Companies Act, 2013.
- Gazette Notification of Ministry of Corporate Affairs vide No. A-42011/112/2014-Ad.II, dated 24.03.2015 (see SO 831(E), dated 24.03.2015)

**In respect of:**

CLAIRVOYANT INDIA PRIVATE LIMITED having CIN U72200PN2014FTC153250 having its registered office as per MCA21 Registry at Sr. No. 35/1/2, Plot No. 6, office No.1 & 2, First Floor, Kshitij Heights, Baner, Pune, Maharashtra - 411045.

**1. Appointment of Adjudicating Officer:**

Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad.II, dated 24.03.2015 (see SO 831(E), dated 24.03.2015) appointed undersigned as Adjudicating Officer in exercise of the powers conferred by section 454(1) of the Companies Act, 2013 (*herein after known as Act*) r/w Rule 3(1) of Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

**2. Company:**

**CLAIRVOYANT INDIA PRIVATE LIMITED (U72200PN2014FTC153250)** (*herein after referred as Company*) is a registered company with this office under the provisions of section 7 of the Companies Act, 2013 having its registered office as per MCA21 Registry at address Sr. No. 35/1/2, Plot No. 6, Office No. 1 & 2,,First Floor, Kshitij Heights, Baner,,Pune,Pune,Maharashtra,411045,India

**3. Facts about the Case:**

o/c

- a) In terms of provisions of section 135(1) of the Act, every company having net worth of five hundred crore or more, or turnover of one thousand crore or more or a net profit of rupees five crore or more shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more Directors, out of which at least one Director shall be an Independent Director.
- b) In terms of provisions of section 135(5) the Board of every Company referred to sub-section (1) shall ensure that the Company spends, in every financial year, at least two percent of average net profit of the Company, made during the three immediately preceding financial years or where the Company has not Completed the period of three financial year since its incorporation, during such immediate preceding financial year in pursuance of its Corporate Social Responsibility policy.
- c) The Company has filed suo-moto application for adjudication proceedings vide SRN F61235800 on 08.05.2023, bringing to the kind attention of the Authority a non-compliance with the provision of section 135 of the Companies Act, 2013. It is seen that Company has not constituted a Corporate Social Responsibility Committee even though the net profit pursuant to the provisions of section 198 of the Companies Act, 2013 for the financial year ended 31-03-2020 is Rs.6,57,30,409.89/- which triggered the limits as specified under section 135(1) of the Companies Act. 2013 and did not disclose the same in Board's Report for the year 2020-21 and Company failed to spend the CSR amount by 31-03-2021 and further failed to transfer the unspent amount to one of the specified funds by 30-09-2021 as per section 135(5) of the Companies Act, 2013.

Hence, the Company and the officers are liable for action under the provisions of the sub-section (7) of Section 135 of the act for violation of section 135(5) & section 450 of the Act for violation of section 135(1). The noticees are erstwhile Directors of the Company and have ceased to be Directors of the Company w.e.f 16.12.2021. The notice is arising out of the suo-moto application by company and current management for whom separate adjudication order is already passed on 10.04.2024

- d) The AO had issued a notice to the Company vide notice No. ROCP/ADJ/135/CLAIR/23-24/68 to 71 dated 10.04.2024 (herein after referred as Adjudication Notice) under section 454(4) read with 135 of the Companies Act, 2013 read with Rule 3(2) of Companies (Adjudication of Penalties), 2014 to its officers in default for the violation of the provisions of the act as mentioned in para "c" above;
- e) A reply to the Adjudication notice has been received on 10.05.2024 and it was stated that the Company inadvertently failed to spend the prescribed CSR amount by March 31, 2021 nor transferred the unspent amount to one of the specified funds of Schedule VII under the Act by September 30, 2021. Further the reply of the Company is reproduced below:-

In terms of sub-section (9) of Section 135 of the Act, where the amount to be spent by a company, under sub-section (5) does not exceed fifty lakh rupees, the requirement under sub-section(1) for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such

Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company.

The said sub-section (9) was inserted in Section 135 of the Act in terms of MCA Notification dated January 22, 2021.

As per the calculation of CSR obligation of the Company for the financial year (FY) 2020-21, the amount arrived at was INR 8,93,311. Accordingly, the statutory obligation being below INR 50 Lakh, the requirement of constitution of the CSR committee was optional with effect from January 21, 2021, and was not applicable to the Company before the conclusion of the relevant financial year for CSR expenditure i.e FY 2020-21.

In view of the above, the non-constitution of CSR committee should not be considered as a noncompliance as it was not applicable to the Company at the time of default, pursuant to Section 135(9) of the Act and thus no penalty be levied as per Section 450 of the Act.

During the financial year 2020-21, 2021-22, owing to the challenges faced due to Covid-19 pandemic circumstances, the business operations were disrupted significantly. The lockdown imposed from time to time, other movement/functioning restrictions, employees working from home and such other factors, the working of the Company, the internal co-ordination, the availability and accessibility of necessary information and documents was considerably affected. Though unlock phases were going on, no sign of normal working conditions was seen insight. The pandemic considerably affected the overall functioning of the company

Consequently, in relation to non-spending of the CSR obligation for FY 2020-21, the CSR provisions in Section 135 of the Act were inadvertently interpreted in a way that the calculation of 'Net Profit' for the purpose of considering applicability of Section 135 for the financial year ended on March 31, 2020, was to be considered based on 'Profit after tax'(PAT) i.e. INR 4,78,51,247.57. Owing to the same, it was assumed that the CSR provisions had not been triggered for FY 2020-21 and hence the Company was not obligated to spend the amount as prescribed. Subsequently, it came to the notice of the Company that the net profit to be considered for the CSR obligation calculation purpose was INR 6,57,30,409.89 in terms of Section 198 of the Act and that it had triggered the obligation for CSR spending for the FY 2020-21.

Due to the aforesaid unintentional different interpretation of the provisions, the Company failed to spend the CSR amount within the time mentioned under Section 135(5) of the Act i.e by March 31, 2021, and further failed to transfer the unspent CSR to the fund specified under Schedule VII of the Act by September 30, 2021. Being a non-compliance due to inadvertence and without any malafide intention, due to misinterpretation and misunderstanding of provisions, the Applicants humbly request your good office to take lenient view of the contravention and charge minimal penalty under Section 135(7) of the Act. The Applicants further humbly request that an opportunity of being heard, and oral representation through an authorized representative appointed by the Applicants must be given, before imposing any penalties

- f) The Adjudication Officer also had conducted a hearing of the Authorized Representative of the noticees to give the opportunity of being heard before imposing penalty by issuing hearing notice vide Notice

No.ROCP/ADJ/135/CLAIR/24/569 to 572 dated 14.06.2024. CS Pallavi Salunke appeared before the AO being the Authorized Representative of the noticees on 05.07.2024 and admitted the violation on account of inadvertence. .

#### **4. Relevant provisions of the Companies Act, 2013:**

*(1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during 1[the immediately preceding financial year] shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director:*

*2[Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors.]*

*(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.*

*(3) The Corporate Social Responsibility Committee shall,--*

*(a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company 3[in areas or subject, specified in Schedule VII];*

*(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and*

*(c) monitor the Corporate Social Responsibility Policy of the company from time to time.*

*(4) The Board of every company referred to in sub-section (1) shall,--*

*(a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and*

*(b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.*

*(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 years, 4[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 years.*

*[Provided also that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner, as may be prescribed.]*

*[Explanation.--For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.]*

*[(6) Any amount remaining unspent under sub-section (5), pursuant to any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third 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 Central Government may give such general or special directions to a company or class of companies as it considers necessary to ensure compliance of provisions of this section and such company or class of companies shall comply with such directions.]*

*[(9) Where the amount to be spent by a company under sub-section (5) does not exceed fifty lakh rupees, the requirement under sub-section (1) for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company.] Section 92(4) of the Act provides that Every company shall file with the Registrar a copy of the annual return, within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed*

## **5. Discussion and Findings:**

- a) It is a fact that the company has suo moto applied for the instant proceedings citing that there was a violation of the provisions of the Section 135 of the Act and that the company had failed to constitute the CSR committee and has failed to spend the required CSR amount and has further failed to transfer the unspent CSR amount to a fund specified in Schedule VII within a period of six months of the expiry of the financial years.
- b) The facts of the case are that the company had earned a profit of more than Rs. 5 Cr in financial year 2019-2020 and thus the CSR provisions were applicable to the company in the financial year 2020-2021. The total amount which was required to be spent by the company on CSR in the financial year 2020-2021 was Rs.8,93,311/-.
- c) The company failed to constitute the CSR committee during the financial year 2020-2021 and also failed to spend the required amount as stated above and further failed to transfer the same to Sch. VII specified fund. The company transferred the amount on 14.09.2022 to the Prime Minister National Relief Fund which was not within the timelines as prescribed u/s 135 (5) of the Act.
- d) There was a change of management in the company w.e.f. 16.12.2021 as under:

UIN/PAN	Name	Current Designation	Date of appointment	Original date	Date of Resignation
00552253	VIKAS BHALLA	Director	27.09.2022	27.09.2022	
00552253	VIKAS BHALLA	Additional Director	16.12.2021	16.12.2021	27.09.2022
06945241	SHANTANU PRAKASH MIRAJKAR	Director	27.11.2014	27.11.2014	16.12.2021
06945253	AMITA MIRAJKAR SHANTANU	Director	27.11.2014	27.11.2014	16.12.2021
07074463	BALJINDER SINGH SABHARWAL	Director	27.09.2022	27.09.2022	
07074463	BALJINDER SINGH SABHARWAL	Additional Director	16.12.2021	16.12.2021	27.09.2022
07094579	BHAVNA NEWLE CHOPRA	Director	27.09.2022	27.09.2022	
07094579	BHAVNA NEWLE CHOPRA	Additional Director	16.12.2021	16.12.2021	27.09.2022
07840302	CHANDRA SEKHAR AMBADIPUDI	Director	01.01.2021	01.01.2021	16.12.2021
09014576	SHEKHAR SASTRY VEMURI	Director	01.01.2021	01.01.2021	16.12.2021
10117773	SANDEEP TIBREWAL	Director	21.09.2023	21.09.2023	
10117773	SANDEEP TIBREWAL	Additional Director	01.06.2023	01.06.2023	20.09.2023

- e) The noticees are taking a plea that the requirement of constituting the committee were exempted from 22.01.2021. This argument by the noticees is not tenable. It is pertinent to note here that the first board meeting of the company for the financial year 2020-2021 was held on 16/06/2020 as per the annual return for that financial year filed by the company vide SRN T77262756 on 08.02.2022. Further, before such exemption was granted, six (06) board meetings were held and no CSR committee was established despite the provisions were applicable. For all these meetings, there is no ways and means to predict that the provisions will not be applicable w.e.f. 22.01.2021 which is a future date. The officers in default (Old management) have clearly defaulted in constituting the CSR committee w.e.f. 01.04.2020 till 22.01.2021. Thus, are liable for action.
- f) Further, the adjudication notice was sent to the company and its current management on 01.12.2023 by invoking provisions of

Section 20 of the Act to serve a copy of the notice to all the Directors/Officers of the company. It is seen from the records that no reply is received from any of the old Directors. Also, the company in its various replies has not confirmed the service of notice to the old management. Hence, separate notices were issued to the old management who are also officers in default.

## 6. ORDER:

- a. Considering the above facts of the case and the relevant provisions; the undersigned now hereby pronounces the order. Further, the delay in issuance of the order is on account of checking MCA21 records; other administrative reasons, Also, that the company had initially applied for compounding of offence; however; the provisions of section 135 were amended to be proceeded under adjudication regime w.e.f. 22/01/2021; and accordingly the matter was considered under adjudication.
- b. The noticees have defaulted the provisions of section 135(1) r/w 135(5) and of the Companies Act, 2013. Penalty for section 135(1) is levied under section 450 which is adjudicable w.e.f. 21/12/2020
- c. In exercise of the powers conferred on the undersigned vide Notification dated 24<sup>th</sup> March, 2015 and having considered the facts and circumstances of the case and oral submissions made by the representative of Noticee(s) physical hearing and after taking into account the factors mentioned herein above, I do hereby impose the penalty on the officers in default pursuant to Rule 3(12) of Companies (Adjudication Of Penalties) Rules, 2014 and the proviso of the said Rule and Rule 3(13) of Companies (Adjudication Of Penalties) Rules, 2014 , as per table below for violation of section 135(1) and 135(5) of the Act:-

### a. Penalty for violation of sub-section (1) of section 135 with penalty under 450:-


Penalty imposed on company/director(s)	No. of days of default	First default (In Rs)	Default continues (In Rs)	Total / maximum penalty (In Rs)
SHANTANU PRAKASH MIRAJKAR	32	10000	1000*32=32,000	42,000/-
AMITA IRAJKAR SHANTANU	32	10000	1000*32=32,000	42,000/-
CHANDRA SEKHAR AMBADIPUDI(Date of appointment:01.01.2021)	21	10000	1000*21 =21000	31,000/-
SHEKHAR SASTRY VEMURI (Dt. of appointment :01.01.2021)	21	10000	1000*21=21000	31,000/-

\*(Date of default is considered from 21.12.2020 to 21.01.2021 with section 450 being adjudicable from 21.12.2020

**b. Penalty for violation of sub-section (5) of section 135 under, 135(7) of the Act:-**

Penalty imposed on company/director(s)	Penalty for default (In Rs) as per section 135(7) of the Act	Total / maximum penalty (In Rs)
SHANTANU PRAKASH MIRAJKAR	8,93,311*1/10	89,311/-
AMITA IRAJKAR SHANTANU	8,93,311*1/10	89,311/-
CHANDRA SEKHAR AMBADIPUDI	8,93,311*1/10	89,311/-
SHEKHAR SASTRY VEMURI	8,93,311*1/10	89,311/-

- d. In the interest of justice and opportunity of being heard, separate adjudication notices are being simultaneously issued to the old management for submissions, if any before passing the order.
- e. I am of the opinion that penalty so imposed is commensurate with the aforesaid failure committed by the notice(s).
- f. The Noticee(s)/applicant(s) shall pay the penalty so imposed through Ministry of Corporate Affairs portal only as per rule 3(14) of Companies (Adjudication Of Penalties) Rules, 2014.
- g. Appeal against this order may be filed under section 454(5) of the Act, in writing with the Regional Director (Western Region), Ministry of Corporate Affairs 100, Everest, 5th Floor, Netaji Subhash Road, Marine Drive, Mumbai-400002, 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 a certified copy of this order. [Section 454 of the Act read with Companies (Adjudication of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019.
- h. Your attention is also invited to section 454(8)(ii) of the Act regarding consequences of non-payment of penalty within the prescribed time limit of 90 days from the date of the receipt of copy of this order in terms of the provisions of section 454(8)(i) of the Act.

  
**(Mangesh Jadhav, ICLs)**  
**Adjudicating Officer**  
**Registrar of Companies**  
**Maharashtra, Pune**

To,

1. SHANTANU PRAKASH MIRAJKAR  
Plot No. 17, Adwait Nagar, Paud Road,  
Near Jog Hospital, Kothrud, Pune, Pune City,  
411038, Maharashtra, India



2. AMITA MIRAJKAR SHANTANU  
Plot No 17, Adwait Nagar, Paud Road,  
Near Jog Hospital, Kothrud,  
Ex. Servicemen Colony, Pune, 411038, Maharashtra, India
3. CHANDRA SEKHAR AMBADIPUDI,  
C/o. CLAIRVOYANT INDIA PRIVATE LIMITED  
Sr. No. 35/1/2, Plot No. 6, office No. 1 & 2,  
First Floor, Kshitij Heights, Baner,  
Pune, Maharashtra – 411045.
4. SHEKHAR SASTRY VEMURI,  
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Maharashtra, India.

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- E-mail to content Manager for publication on Ministry's website.