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**BEFORE THE REGIONAL DIRECTOR,
NORTHERN REGION
MINISTRY OF CORPORATE AFFAIRS, NEW DELHI
RD(NR)/ADJ/454/F70699939**

THE REGIONAL DIRECTOR (NR)

In the matter of the Companies Act, 2013- Section 454 r/w Section 134 & 135

In the matter of **SMITH N SMITH CHEMICALS LIMITED** (CIN: U24100DL2013PLC252186) having registered office at 4th & 5th Floor, Block-A, Ndm-1, Netaji Subhash Place, North West, Delhi, 110034.

Appellant(s):

1. M/s Smith N Smith Chemicals Limited
2. Mr. Rajesh Kumar Jindal
3. Mr. Surinder Kumar Chaudhary
4. Mr. Neeraj Kumar Jindal
5. Mr. Piyush Jindal

Through:

Mr. Sumit Kumar, Practicing Company Secretary

Mr. Shashi Raj Dara, Joint Director

.....Presenting Officer

Date of Hearing: 05.06.2024, 02.09.2024, 13.11.2024 and 16.12.2024.

ORDER

1. The present appeal vide e-Form ADJ bearing SRN **F70699939** dated 23.10.2023 under sub-section (5) of section 454 of the Companies Act, 2013 (Act) r/w the Companies (Adjudication of Penalties) Rules, 2014 (Rules) was filed by Smith N Smith Chemicals Limited, and its Directors/Officers in default, against two distinct adjudication orders No. ROC/D/Adj Order/Section 134/Smith/3458-3463 dated 05.09.2023 and order No. ROC/D/Adj Order/Section 135/Smith/3452-3457 dated 05.09.2023 passed by Registrar of Companies, Delhi & Haryana for contravention of Sections 134 and 135 of the Companies Act, 2013.
2. The appeal falls within the jurisdiction of the Regional Director, Northern Region, Ministry of Corporate Affairs, Government of India.



3. The Appellants submitted the following grounds in support of the appeal *inter alia* that:

- a) CSR provisions were erroneously stated to be non-applicable in the Board's Report due to oversight.
- b) The company fulfilled its CSR obligation for FY 2022-23 by depositing the required amount into the PM CARES Fund on 07.02.2023.
- c) The company had *suo moto* filed an application under Section 454(1) without receiving a show cause notice.
- d) Non-compliance was inadvertent, without *mala fide* intent, and was influenced by operational disruptions due to COVID-19.
- e) The quantum of penalty was claimed to be excessive and harsh.
- f) Additional submissions relied on judicial precedents including ROC vs. APB Food Co. Pvt. Ltd. and ROC vs. Joy Ice Cream (Bangalore) Pvt. Ltd.

4. In terms of Rule 6(1) of the Companies (Adjudication of Penalties) Rules, 2014, the adjudicating officer vide letter dated 22.10.2024 confronted the grounds of the appeal that *"it was submitted that there is no point of law raised by the company. They have admitted the default but only questioned the quantum of penalty imposed by the office. In this regard, it is submitted that the penalty has been imposed in a non-discretionary manner, and it is strictly based on provisions of law. Therefore, the entire appeal lacks merit, and it deserves to be dismissed."*

5. The hearing in the matter was scheduled for 05.06.2024, 02.09.2024, 13.11.2024 and 16.12.2024. The parties to the appeal have been heard at length and given the opportunity to submit their written submissions. The Presenting Officer has pointed out that:

- It is an established principle of law and a procedural requirement that each appeal must correspond to a distinct adjudication order. In this case, the appellants have combined two separate adjudication orders (under Section 134 and Section 135) into a single appeal, which is procedurally defective and not maintainable as the same contravenes the prescribed mechanism under Section 454(5) of the Companies Act, 2013, and Rule 12 of the Companies (Adjudication of Penalties) Rules, 2014.
- The Appellants have not disputed the fact of non-compliance. In their submissions, they admit the defaults but seek reduction of penalty on grounds of inadvertence, *bona fide* conduct, and post-default corrective action.
- The CSR obligation under Section 135(5) of the Companies Act, 2013 mandates that unspent CSR amounts be transferred to specified funds



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within the financial year. Thus, the Adjudicating Officer's action is in line with the relevant provisions of the Companies Act, 2013. Further, post-default compliance does not negate the occurrence of the contravention nor does it absolve liability under Section 134 or Section 135 of the Act.

- Under Section 454(3) of the Companies Act, 2013, the Adjudicating Officer is bound to impose penalty as per the statute. Section 454(1) to 454(3) of the Companies Act, 2013 follows a non-discretionary framework, prescribing minimum and maximum penalties.
 - Section 454(7) of the Companies Act, 2013 provides that an appeal lies to the Regional Director against the order of the Adjudicating Officer. However, Section 454(8) of the Companies Act, 2013 clearly implies that the Regional Director is to examine whether the order of the Adjudicating Officer is in accordance with law. Furthermore, the Adjudicating Officer does not have the power to reduce the penalty in case a fixed sum of penalty provided for the default of a provision, as the adjudication of penalties is guided strictly by the relevant provisions of the Companies Act, 2013 and the relevant rules.
 - The judgments cited by the Appellants, such as Joy Ice Cream (District Court) are not applicable particularly in the light of Rule 13 of the Companies (Adjudication of Penalties) Rules, 2014. Moreover, those decisions pertain to different statutory contexts and often involve separate forums (e.g., civil courts), which are not relevant in adjudication under Section 454 of the Companies Act, 2013 and rules made thereunder.
6. In view of the above facts and submissions made by the Adjudicating Officer and the Presenting Officer, the present appeal is devoid of merit and justifiable grounds. Therefore, the undersigned by virtue of power vested in the Regional Director under section 454(7) of the Companies Act, 2013 read with the Companies (Adjudication of Penalties) Rules, 2014 confirms the order dated 05.09.2023 of the adjudicating officer. Hence, the present appeal is dismissed and disposed off accordingly

Signed on the day of June 2025 at New Delhi.

06 JUN 2025


(VINOD SHARMA)
REGIONAL DIRECTOR (NR)

Endt. No. Appeal/RD(NR)/454/ADJ/F70699939/2024/ 2297 Dated:

06 JUN 2025

1. Smith N Smith Chemicals Limited
4th & 5th Floor, Block-A, NDM-1, Netaji Subhash Place,

North West, Delhi, 110034.

2. Mr. Rajesh Kumar Jindal
House No 271, Sector-9, Panchkula, Haryana-134109
3. Mr. Surinder Kumar Chaudhary,
House no. 6068, Modern Housing Complex,
Manimajra, Chandigarh-160101
4. Mr. Neeraj Kumar Jindal,
F-3/21, Ground Floor, Vasant Vihar-1, Delhi-110057
5. Mr. Piyush Jindal,
Unit No Y-051, DLF Capital Greens, Moti Nagar,
Karam Pura, Delhi-110015
6. Registrar of Companies, NCT of Delhi & Haryana.
7. E-Gov. Cell, Ministry of Corporate Affairs, New Delhi

