

EM-108240150



शिघ्र डाक सेवा
SPEED POST

BEFORE THE REGIONAL DIRECTOR, WESTERN REGION

MINISTRY OF CORPORATE AFFAIRS, MUMBAI

प्रादेशिक निदेशक, पश्चिम क्षेत्र, कारपोरेट कार्य मंत्रालय, मुंबई के समक्ष

सं. - प्रादे. निदे. (प.क्षे.)/454(5)/Renaissance Investment/90/2024-25/ 3366

10 JUN 2025

3 JUN 2025

APPEAL UNDER 454(5) OF COMPANIES ACT, 2013 AGAINST ORDER PASSED FOR OFFENCES COMMITTED UNDER SECTION 90 OF THE COMPANIES ACT, 2013.

In the matter of RENAISSANCE INVESTMENT SOLUTIONS ARC PRIVATE LIMITED.

1. Renaissance Investment Solutions Arc - Company Private Limited

...Appellant

Present: 1) Garima Nagpal, ICLS, Asstt. Registrar of Companies, Mumbai.
2) Kumudini Bhalerao, Liquidator & Practicing Company Secretary and Authorized Representative for the Appellant.

ORDER

Appeal under sub-Section (5) of Section 454 of the Companies Act, 2013 (Act) r/w the Companies (Adjudication of Penalties) Rules, 2014 (Rules) has been filed by 'Renaissance Investment Solutions Arc Private Limited' (Company) having CIN U65999MH2020PTC348936 against Order No. ROC/Mum/ Renaissance/AdjSec.454(3) r/w Sec.90/Sr.No.36/RD-18/3367 to 3370 dated 07/01/2025 (ROC Order) of Registrar of Companies, Mumbai for violating provisions of Section 90 of the Act.

2. The appeal lies within the jurisdiction of the Regional Director, Western Region, Ministry of Corporate Affairs, Government of India.

3. The punishment for contravention of section 90 is prescribed under section 90(11) of the Act which states that -

" If a company, required to maintain register under sub-section (2) and file the information under sub-section (4) or required to take necessary steps under sub-section (4A), fails to do so or denies inspection as provided therein, the company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day, after the first during which such failure continues, subject to a maximum of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of twenty-five 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 one lakh rupees."

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4. The Registrar of Companies, Mumbai (RoC Mumbai) vide Adjudication Order dated 07/01/2025 held the Company and its Officers/Directors, who have defaulted provisions of Section 90 liable for penalty under Section 90(10) & Section 90(11) of the Act from 24/12/2020 to 18/12/2023 for not filing return of Significant Beneficial Owners of the company and changes therein with the Registrar in Form No. BEN-2 within 30 days from the date of receipt of declaration from Significant Beneficial Owner, as prescribed in Rule 4 of Companies (Significant Beneficial Owners) Rules, 2018 as under:

A] Penalty u/s.90(10) for violation of section 90(1) of the Act:

Sr. No.	Name of the company / Director	Period of default	Amount of penalty (In Rs.)
1	Ashwath Ravi Vikram	24/12/2020 to 18/12/2023 (1090 Days) (50,000+1,000X1090=11,40,000/-)	50,000+2,00,000= 2,50,000/-
TOTAL			2,50,000/-

B] Penalty u/s.90(11) for violation of section 90(4A) of the Act:

Sr. No.	Name of the company / Director	Period of default	Amount of penalty (In Rs.)
1	Renaissance Investment Solutions Arc Private Limited	24/12/2020 to 18/12/2023 (1090 Days) (1,00,000+500X1090=6,45,000/-)	1,00,000+5,00,000= 6,00,000/-
2	Neerja Ashok Shah	24/12/2020 to 18/12/2023 (1090 Days) (25,000+200X1090=2,43,000/-)	25,000+1,00,000= 1,25,000/-
3	Ashok Dipchand Shah	24/12/2020 to 18/12/2023 (1090 Days) (25,000+200X1090=2,43,000/-)	25,000+1,00,000= 1,25,000/-
TOTAL			8,50,000/-

5. The company is currently under liquidation. Hence, the company is not able to file Form ADJ. However, the Liquidator has filed all the supporting documents through Form GNL-2 having SRN AB2868556 dt.04/03/2025 on behalf of the company and have placed the physical documents before the Regional Director, WR.

6. Grounds of Appeal & Relief sought:

- The Company is currently under liquidation basis shareholder's resolution passed on February 15, 2024 as per the provisions of Section 59 of Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 wherein, I, Kumudini Bhalerao holding Insolvency Registration number: IBBI/IPA-002/IP-N00099/2017-18/10242 have been appointed as the liquidator of Company.

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- b. We submit that as mentioned in Para 2.5 of our appeal, we duly accept the penalty as mentioned in Table-1 and Table-2 of Rs. 6,00,000 (Indian Rupees Six Lakhs Only) levied upon Company under section 90(11) of the Act by the Hon'ble ROC and the penalty of Rs. 2,50,000 (Indian Rupees Two Lakhs Fifty Thousand Only) levied upon the SBO under section 90 (10) of the Act by the Hon' ble ROC.
- c. However, we are not in agreement with the penalty levied by the Hon'ble ROC on the directors as mentioned in Table-3 because of the following mentioned reasons:
- (A) The period of non-compliance arose on December 24, 2020 as the allotment to Brookfield Property Manager (DIFC) Limited and Housing Development Finance Corporation was made on November 24, 2020 and Form BEN-1 was required to be filed within 30 days from the date of sending BEN-4.
 - (B) Mr. Ashok Shah and Mrs. Neerja Ashok Shah were appointed on the board of the Company on October 28, 2020 and ceased to hold the office on November 24, 2020.
 - (C) It can be observed that Mr. Ashok Shah and Mrs. Neerja Ashok Shah were not holding directorship, when the period of non-compliance arose i.e. December 24, 2020. Hence, the penalty is not required to be levied on the above-mentioned directors.
- d. Hence, we are intending to make an appeal to the Hon'ble Regional Director, Western Region, Mumbai in the matter of adjudication order issued by the Hon'ble ROC, Mumbai for the penalty mistakenly levied on the directors of the Company i.e. Mr. Ashok Shah and Mrs. Neerja Ashok Shah, instead of which the penalty shall be levied on the directors as mentioned in Para 2.10.
- e. We would like to submit that Hon'ble ROC has inadvertently did not levy the penalty on the directors present during the period of non-compliance.
- f. To set aside the previous order dated January 07, 2025 which levies the penalty on Mr. Ashok Shah and Mrs. Neerja Ashok Shah and issue us the revised order. These previous subscribers as well as the directors need not be penalised as they were not holding the directorship, when the non-compliance occurred.
- g. We accept the penalty levied on the Company and the SBO, to retain the same we request your good office to levy the penalty on the directors which were holding the directorship during the period of non-compliance as mentioned in Para No. 2.9 of our appeal.
- h. Minimum penal action be taken against the directors of the Company which were present during the period of non-compliance by taking a lenient view as the Company have made utmost efforts to make good the non-compliance of Section 90 of the Act.
- i. Such other relief as the nature and circumstances of the application may require and the Hon'ble Regional Director may deem fit.

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7. The matter was posted for hearing as per Section 454(5) r/w Section 454(7) of the Act on 04/04/2025. Kumudini Bhalerao, Liquidator & Practicing Company Secretary (PCS), appeared on behalf of the Appellant as its authorized representative. The authorized representative reiterated the submission made by the applicant in its application and have admitted the contravention of Section 90 of the Companies Act, 2013. However, she contested that Neerja Ashok Shah and Ashok Dipchand Shah were not officers in default during the period of default (24/12/2020 to 18/12/2023). She further argued that ROC has not included directors/officers who were actual officers in default.

8. Assistant Registrar of Companies, Mumbai vide further Report dt.30/04/2025, has stated as follows:

- a. It is submitted that the Insolvency Resolution Professional (IRP) has no locus to file an appeal on behalf of former directors) of the Company as;
 - i. The copy of Appeal served to this office also clearly indicates that there is no authorization granted to IRP to file appeal on behalf of former directors).
 - ii. Further, as per Section 33(5) of the Insolvency and Bankruptcy Code, 2016 and established principles of jurisprudence, IRP/Liquidator can only represent the Corporate Debtor i.e. Company in any suit or legal proceedings.
 - iii. Furthermore, it is pertinent to note that the Directors are required to pay the penalty amount out of their own funds and not that of the Company as was also directed in the concerned Adjudication order.

Thus, appellant has no locus and this appeal is not maintainable and should be dismissed in *limine*.

- b. The plea of the Appellant with regards to modification of order to the extent of setting aside penalty imposed on Mr ASHOK DIPCHAND SHAH (DIN: 8855013) and Ms NEERJA ASHOK SHAH (DIN: 8618889) may be admitted as on perusal of the E-form DIR 12 (Exhibit "A") filed vide SRN R72333537 dated 26.11.2020 in the MCA21 database it is observed that, Mr. ASHOK DIPCHAND SHAH (DIN: 8855013) and Ms NEERJA ASHOK SHAH (DIN: 8618889) sent a resignation letter on 24.11.2020 and the receipt of the same has been acknowledged by the Company on 24.11.2020. Thus, they ceased to be a directors on 24.11.2020, as per the provisions of Section 168(2) of the Companies Act, 2013.
- c. During appeal proceedings, penalty cannot be imposed on other officers in default holding directorship during the period of default (as identified in the application) as powers of the appellate authority are limited to confirmation, modification or setting aside of the impugned order, if it finds any error in the same and do not extend to adjudication of penalties. The office of Registrar of Companies, Mumbai may initiate separate adjudication proceedings under Section 454 of the Act against the said directors.



9. The fact of the case is that –

- a. The Liquidator/PCS has admitted non-compliance under Section 90 of the Act and stated that they will pay the penalty imposed by ROC(M) vide Adjudication Order dt.07/01/2025 within 30 days from the date of hearing of the appeal and therefore ROC's Adjudication Order is Confirmed under Section 454(7) of the Act.
- b. PCS is also representing 02 directors mentioned in the Adjudication Order but letter of authority yet to be submitted and stated they (Neerja Ashok Shah and Ashok Dipchand Shah) were not officers in default for violation of Section 90 of the Act which is accepted by Ms.Garima Nagpal, ICLS, AROC(M) and also stated at para 3(i) of AROc reply dt.30/04/2025.
- c. Since both directors namely Neerja Ashok Shah and Ashok Dipchand Shah have not filed Form ADJ/GNL for appeal within 60 days from the date of Adjudication Order dt.07/01/2025, the appeal cannot be proceeded for want of limitation of 60 days' time to file an appeal by the said two Directors.

10. Taking into consideration the Adjudication Order of the Registrar of Companies, Mumbai; submissions made by the Appellant in its application as well as oral submissions of authorized representative during the hearing; further report of RoC, Mumbai dt. 30/04/2025; I am of the considered view that there is no merit in the appeal, and accordingly, the Adjudication Order dated 07/01/2025 passed by ROC, Mumbai is 'CONFIRMED' under Section 454(7) of the Act.

11. In view of the above, the present appeal is dismissed with directions to the appellant to pay penalty imposed by the Registrar of Companies, Mumbai vide Adjudication Order dt. 07/01/2025 within 90 days, failing which, Registrar of Companies, Mumbai, is directed to file prosecution under Section 454(8) of the Act.


12. The appellant is directed to submit proof of payment of penalty (challan) imposed upon them to the Office of Registrar of Companies, Mumbai, for their record and for further necessary action.

13. Registrar of Companies, Mumbai, is further directed to file prosecution under Section 454(8) of the Act, if the directors/officers of the company have failed to deposit the penalty imposed upon them within 90 days of Adjudication Order of ROC, Mumbai dt. 07/01/2025.

A copy of this order shall be published on the website of the Ministry of Corporate Affairs as per Rules.

Signed and sealed on 02nd day of June 2025.




(SANTOSH KUMAR)
REGIONAL DIRECTOR
WESTERN REGION, MUMBAI

To,

1. Renaissance Investment Solutions Arc Private Limited,
A 401/402, 4th Floor, Delphi, Orchard Avenue, Powai,
Mumbai, Mumbai City, Maharashtra 400076, India.
2. Kumudini Bhalerao,
Ecstasy, 803/804, 9th Floor, City of Joy,
JSD Road, Mulund (W), Mumbai 400080.
3. Registrar of Companies, Mumbai with a direction to proceed in the matter as
per law for violation of Section 90 of the Act against officers who are in default
unless they apply suo-moto and not made party in the said adjudication
proceedings.
- ✓ 4. E-Gov Cell, Ministry of Corporate Affairs, New Delhi.
5. Master Copy.
6. Office Copy.

"Certified True Copy"



(TUSHAR WAGH, ICLS)
DEPUTY DIRECTOR