

भारत सरकार
कारपोरेट कार्य मंत्रालय
कार्यालय कम्पनी रजिस्ट्रार, उत्तर.प्रदेश.
37/17, वेस्टकॉट बिल्डिंग, दि माल,
कानपुर-208001 (उ.प्र.)
वेबसाइट / Website : www.mca.gov.in
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सत्यमेव जयते



GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
OFFICE OF REGISTRAR OF
COMPANIES, Uttar Pradesh
37/17, Westcott Building, The Mall,
Kanpur - 208001 (U.P.)
फोन / Phone : 0512 - 2310443 / 2310227

BY SPEED POST

ORDER OF ADJUDICATION OF PENALTY UNDER SECTION 454 OF THE COMPANIES ACT, 2013 READ WITH RULE 3 OF THE COMPANIES (ADJUDICATION OF PENALTIES) RULES, 2014 FOR VIOLATION OF PROVISIONS OF SECTION 188 OF THE COMPANIES ACT, 2013 .

IN THE MATTER OF WATAI ELECTRONICS PRIVATE LIMITED

1. The Ministry of Corporate Affairs vide its Gazette notification no A-42011/112/2014-Ad.II dated 24.3.2015, has appointed the undersigned as Adjudicating Officer in exercise of the powers conferred by section 454 of the Companies Act, 2013 (hereinafter known as Act) read with Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.
2. Whereas the Company **WATAI ELECTRONICS PRIVATE LIMITED (CIN-U31909UP2018PTC109513)** has been registered under the provisions of the Companies Act, on 23.10.2018 and is having its registered office situated at PLOT NO. B-49, SECTOR 83, PHASE 2, NOIDA, Gautam Buddha Nagar, Uttar Pradesh - 201306. The authorized capital of the Company is Rs. 20,000,000.00 /-
3. During the Inquiry it was observed that the Company has entered into related party transactions with one of its group companies namely Kangyin Electronics Private Limited u/s 188 of the companies Act, 2013 for which consent of Board has been taken by passing Board resolution. It may further be noted that pursuant to rule 15 (3) (a) of companies (Meeting of Board and its Power) rules 2014 if any company enter into any contract or arrangements in respect of sale, purchase or supply of any goods or materials directly or through appointment of agent amounting to 10% or more of the turnover of the company as mentioned in clause (a) and clause (e) of section 188 (1) of the Companies Act, 2013 then such company is require to take prior approval of members in general meeting by passing ordinary resolution. During

the year, Subject company has entered into transactions with group company (Purchase and sale the goods) which amount to more than 10% of total turnover of company without taking approval of shareholders in general meeting.

Hence the Company and its directors namely Mohammad Usman and Mr. Jiawei Quian shall be liable for prosecution under section 188 (5) (ii) of the Companies Act, 2013 for the financial year 2019-20.

4. Section 188 of the Companies Act, 2013 provides that:-

(1) Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to—

(a) sale, purchase or supply of any goods or materials;

(b) selling or otherwise disposing of, or buying, property of any kind;

(c) leasing of property of any kind;

(d) availing or rendering of any services;

(e) appointment of any agent for purchase or sale of goods, materials, services or property;

(f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and

(g) underwriting the subscription of any securities or derivatives thereof, of the company:

[Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a [resolution]:

[Provided further that no member of the company shall vote on such 11[resolution], to approve any contract or arrangement which may be entered into by the company, if such member is a related party:]]]

[Provided also that nothing contained in the second proviso shall apply to a company in which ninety per cent. or more members, in number, are relatives of promoters or are related parties:]

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis:

[Provided also that the requirement of passing the resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly

owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

Explanation.— In this sub-section,—

(a) the expression “office or place of profit” means any office or place—

(i) where such office or place is held by a director, if the director holding it receives from the company anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(ii) where such office or place is held by an individual other than a director or by any firm, private company or other body corporate, if the individual, firm, private company or body corporate holding it receives from the company anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(b) the expression “arm’s length transaction” means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

(2) Every contract or arrangement entered into under sub-section (1) shall be referred to in the Board’s report to the shareholders along with the justification for entering into such contract or arrangement.

(3) Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the Board or approval by a 3[resolution] in the general meeting under sub-section (1) and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement 9[shall be voidable at the option of the Board or, as the case may be, of the shareholders] and if the contract or arrangement is with a related party to any director, or is authorised by any other director, the Directors concerned shall indemnify the company against any loss incurred by it.

(4) Without prejudice to anything contained in sub-section (3), it shall be open to the company to proceed against a director or any other employee who had entered into such contract or arrangement in contravention of the provisions of this section for recovery of any loss sustained by it as a result of such contract or arrangement.

Section 188(5) of the Companies Act, 2013 provides that –

Any director or any other employee of a company, who had entered into or authorized the contract or arrangement in violation of the provisions of this section shall,—

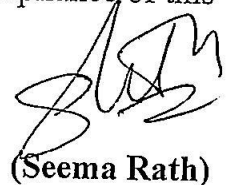
- (i) in case of listed company, be [liable to a penalty of twenty-five lakh rupees] and
- (ii) in case of any other company, be [liable to a penalty of five lakh rupees]

5. Accordingly, a Show Cause Notice No.07/01/Adj/2024/Watai/1453 to 1456 dated 04.06.2024 was issued to the company and its officers in default under section under Section 184(1) of the Companies Act, 2013, read with Companies (Adjudication of Penalties) Rules, 2014 by this office for non-compliance of the section 184 of the Companies Act, 2013.
6. The Company has sent its reply was received from the company vide letter dated 29.06.2024 stating that there has been no violation of Section 188 of the Companies act, 2013 as according to the fourth proviso to Section 188(1) , approval from the Board of directors and shareholders is not necessary if the transactions are conducted in the ordinary course of business and on arms length basis. The submissions made by the company vide above-mentioned letter dated 29.06.2024 in response to the SCN dated 04.06.2024 is not tenable , hence penalty is imposed.
7. Having considered the facts and circumstances of the case and after taking into account the factors above, I hereby impose a penalty of **Rs.5,00,000/- each** on the directors company for failure to make compliance of section 188(1) of the Companies Act, 2013. It is of this opinion that penalty is commensurate with the aforesaid failure committed by the Noticee –

Penalty for non -compliance of Section 188(1) of the Companies act,2013 –

Nature of default and period from which started	Section of the Companies Act.	Name of the directors(officers in default)	Penalty imposed details
The company has entered into transactions with group company (Purchase and sale the goods) which amount to more than 10% of total turnover of company without taking approval of shareholders in general meeting	188(1)	1. Mohammad Usman , Director	5,00,000.00/-
		2. Jiawei Quian, director	5,00,000.00/-
		Total Penalty	10,00,000/-

8. The Noticee shall pay the amount of penalty by way of e-payment [available on Ministry website www.mca.gov.in] under "Pay miscellaneous fees" category in MCA fee and payment Services within 90 days of receipt of this order and intimate this office with proof of penalty paid .
9. Appeal against this order may be filed in writing with the Regional Director (Northern Region), Ministry of Corporate Affairs, CGO Complex, Lodi Road, New Delhi, 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(5) & 454(6) of the Act, read with Companies (Adjudication of Penalties) Rules, 2014].
10. In Case appeal is made O/o Registrar of Companies, U.P. maybe informed alongwith the penalty imposed & the payments made. Attention is also invited to section 454(8) of the Companies Act, 2013, in the event of non-compliance of this order.



(Seema Rath)
Registrar of Companies & Adjudicating Officer
0/8 Uttar Pradesh, Kanpur.

No.07/01/Adj/2024/Watai/5078+05080 Dated 26/2- .2024

To,

1. Watai Electronics Private Limited,
Plot No.B-49, Sector 83, Phase 2 , Noida,
Gautam Budha Nagar, U.P.-201306.
2. Mohd Usman(Director),
F-36, New friends colony, Shaheen Bagh,
Abu fazal , Enclave , Part 2 , Okhla Jam
New Delhi , 110025.
3. Mr. Jiawei Qian, Director
5 coo gee road mount pleasant , Australia .
4. Copy for Information to the Regional Director, Northern Region,
Ministry of Corporate Affairs, CGO Complex, Lodhi Road, New Delhi.