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Amendment in Companies (Adjudication of Penalties) Rules, 2024

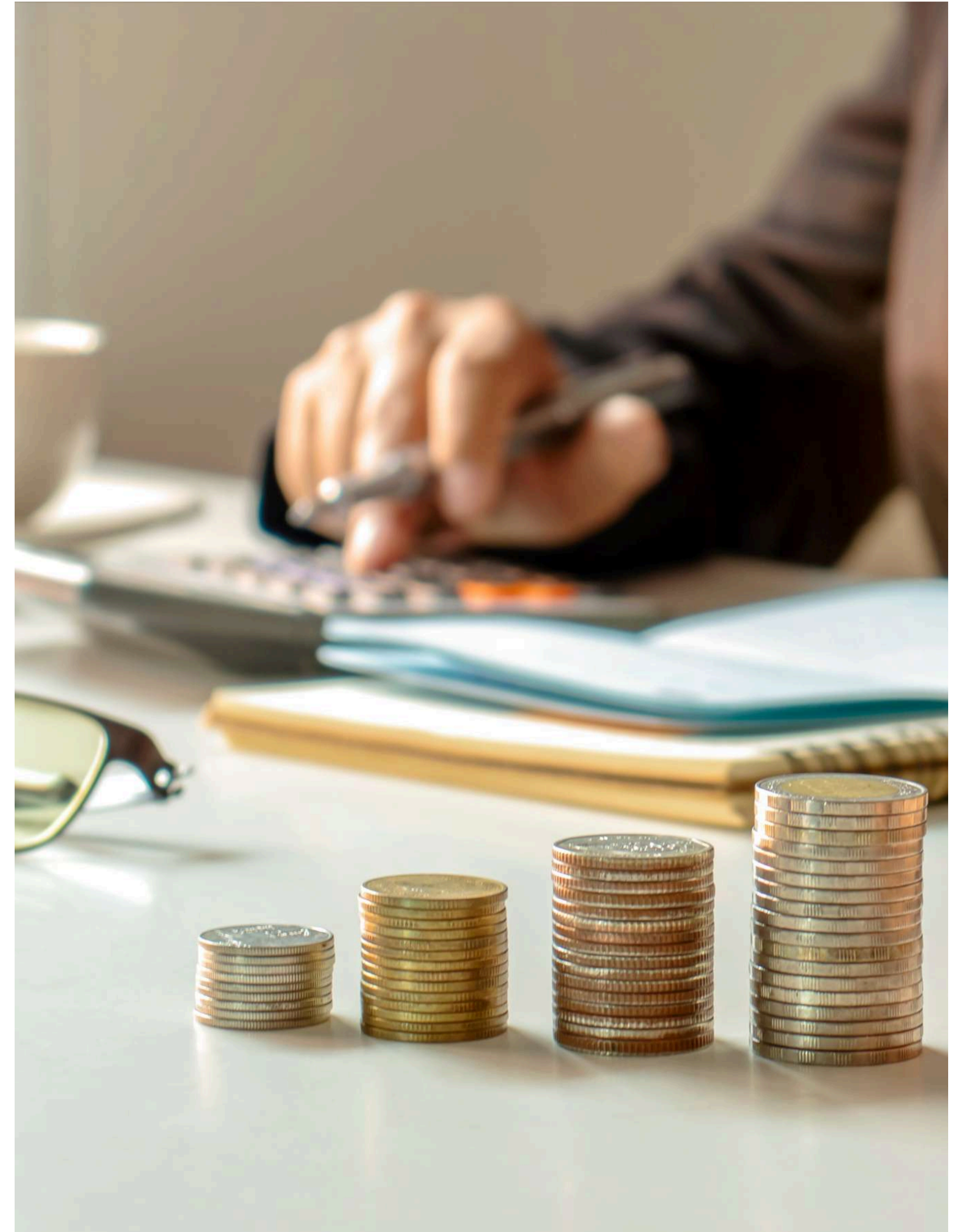
The Companies (Adjudication of Penalties) Second Amendment Rules, 2024 introduced via G.S.R. 630(E), and made the following changes under the Companies Act, 2013:

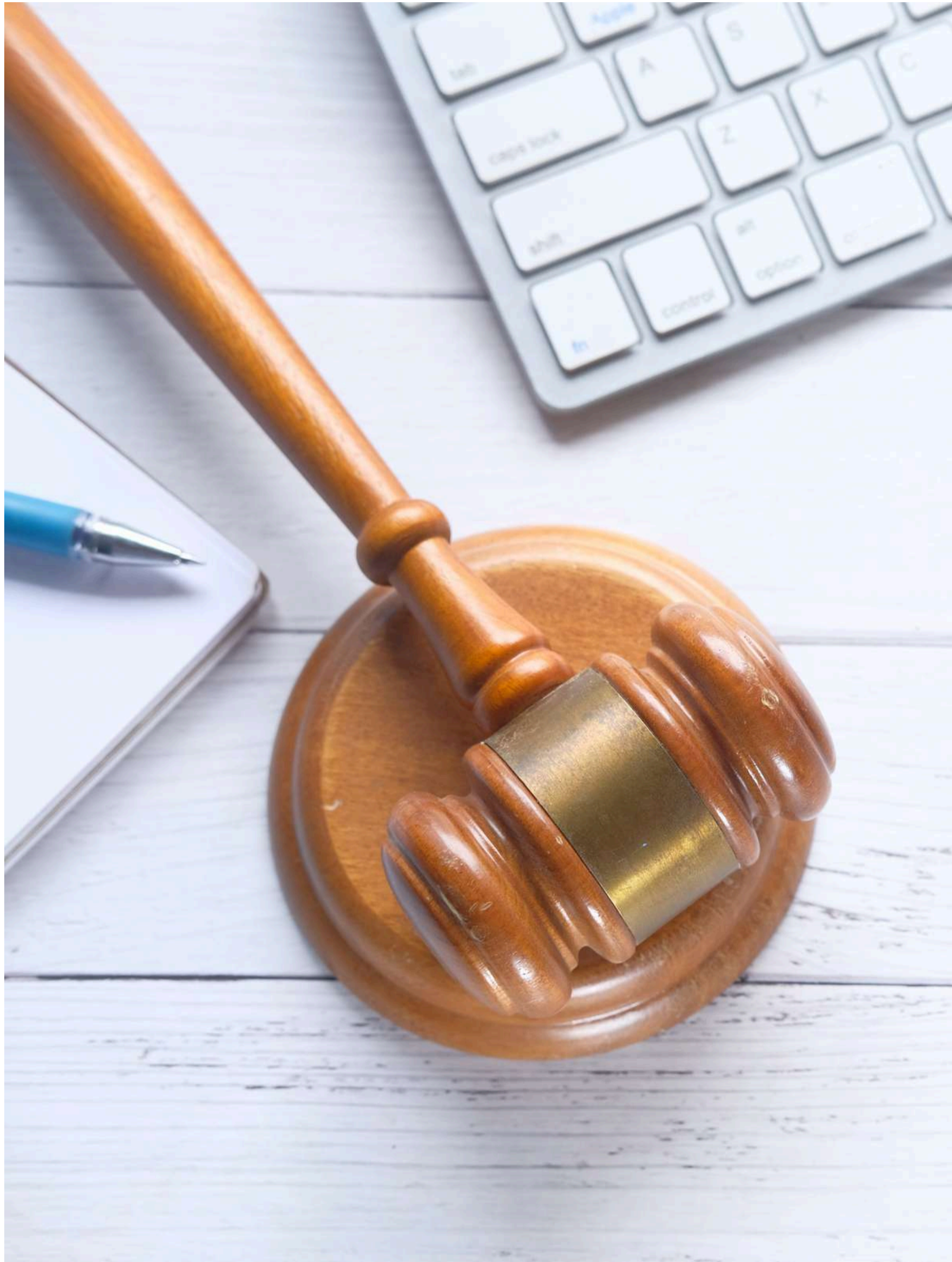
- The Companies (Adjudication of Penalties) Rules, 2014 were amended and named “Companies (Adjudication of Penalties) Second Amendment Rules, 2024”.
- Amendment to Rule 3A of the Companies (Adjudication of Penalties) Rules, 2014, a proviso is added to sub-rule (1) of rule 3A, stated – “Provided that the proceedings pending before the Adjudication officer or Regional Director on the date of such commencement shall continue as per provisions of this rules existing prior to such commencement.”

Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Rules, 2024.

Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Amendment Rules, 2024 introduced via G.S.R. 607(E) and made following changes-

- Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Amendment Rules, 2018 were amended and named “Investor Education and Protection Fund Authority (Form of





Annual Statement of Accounts) Amendment Rules, 2024”.

- In Sub-rule 2 of Rule 5 of e Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Rules, 2018, instead of word “one Member” the words “the chief executive officer” shall be used

Order for Penalty under Section 454 for violation of Section 203 of the Companies Act, 2013 in the Matter of Pondicherry Special Economic Zone Company limited

The Company, Pondicherry Special Economic Zone Company limited (herein referred as the Company) was incorporated on 19.06.2006 and has been merged with Sanmati Infradevelopers Private Limited (Transferee Company).

The Transferee company had filed adjudication application on June 07, 2024, for non-compliance of the provisions of section 203 of the Companies Act, 2013 read with rule 8 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 by its wholly-owned subsidiary, for failure to appoint whole-time key managerial personnel viz. managing director or chief executive officer or manager, company secretary and chief financial officer, as the company’s paid-up capital crossed the threshold to appoint key managerial personnel.

Notifications & Updates

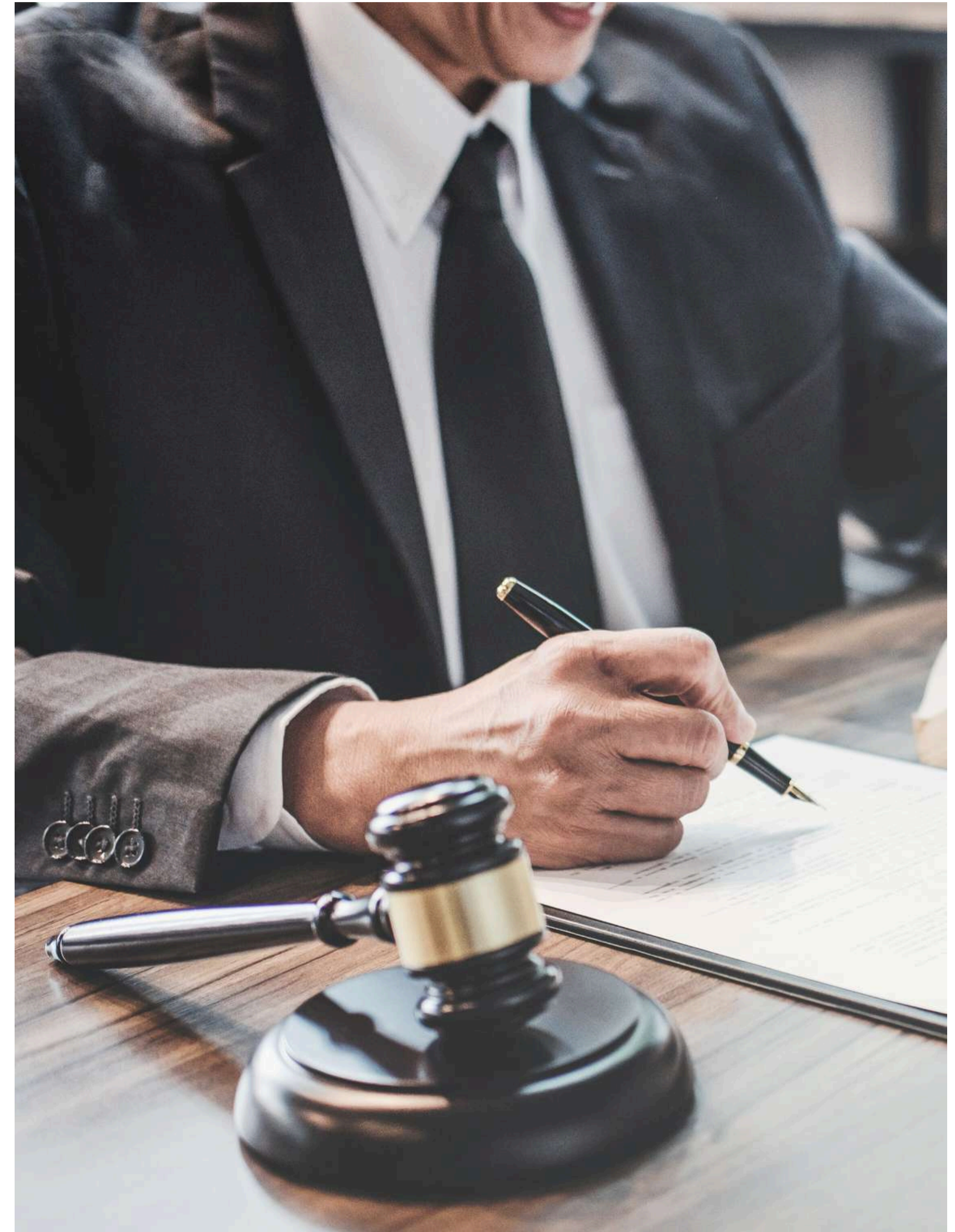
As per Rule 8 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, Every listed company and every other public company having a paid-up share capital of ten crore rupees or more shall have whole-time key managerial personnel.

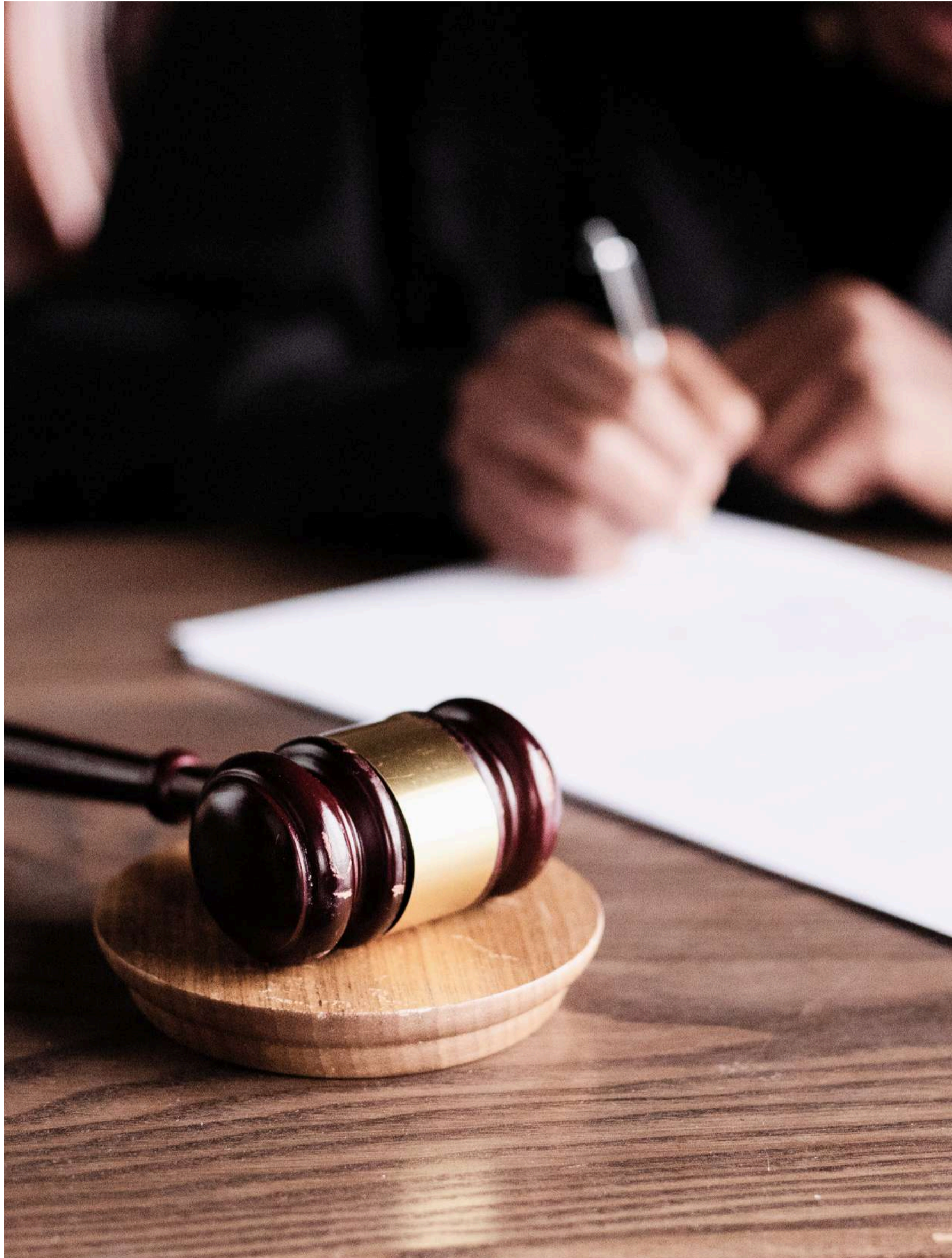
As per section 203(5) of the Companies Act, 2013, if any company defaults with any provision of this section, such company shall be liable to a penalty of five lakh rupees and every director and key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees and in case of a continue default, a penalty of one thousand rupees for each day after the first during which such default continues but not exceeding five lakh rupees.

Upon examination of the application, submission made and requirement of section 203 of Companies Act, 2013, It was declared that the company and its directors/ officers have violated the provisions mentioned. Therefore, a penalty was imposed on the company and its directors/ officers in default.

Order for Penalty under Section 454 for violation of Section 158 of the Companies Act, 2013 in the Matter of Royal Crystal Dealers Private limited

On the basis of inquiry made u/s 206 of Companies Act, 2013, it was observed that the company violated section 158 of Companies Act, 2013, and the company in its reply stated that the omission to quote the Director Identification Number was not intentional.





Further Director Identification Number was provided in E-form 23AC-ACA as filed with MCA portal. Director Identification Number is available on MCA portal, hence there was no malafied intention for not disclosing the Director Identification Number.

Investing officer concluded that violation under section 158 of Companies Act,2013 exists and its penal provisions will be applicable.

As per Section 158 of Companies Act, 2013, Every person or company , while furnishing any return, information or particulars under this Act, shall mention the Director Identification Number in such return, information or particulars or in case such return, information or particulars relate to the director or contain any reference of any director.

As per Section 172 of Companies Act, 2013, If a company defaults in complying with any of the provisions of section 158, the company and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees, and in case of a continuing failure, with a further penalty of five hundred rupees for each day during which such failure continues, subject to a maximum of three lakh rupees in case of a company and one lakh rupees in case of an officer who is in default.

As per Section 446B of Companies Act, 2013, Notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the

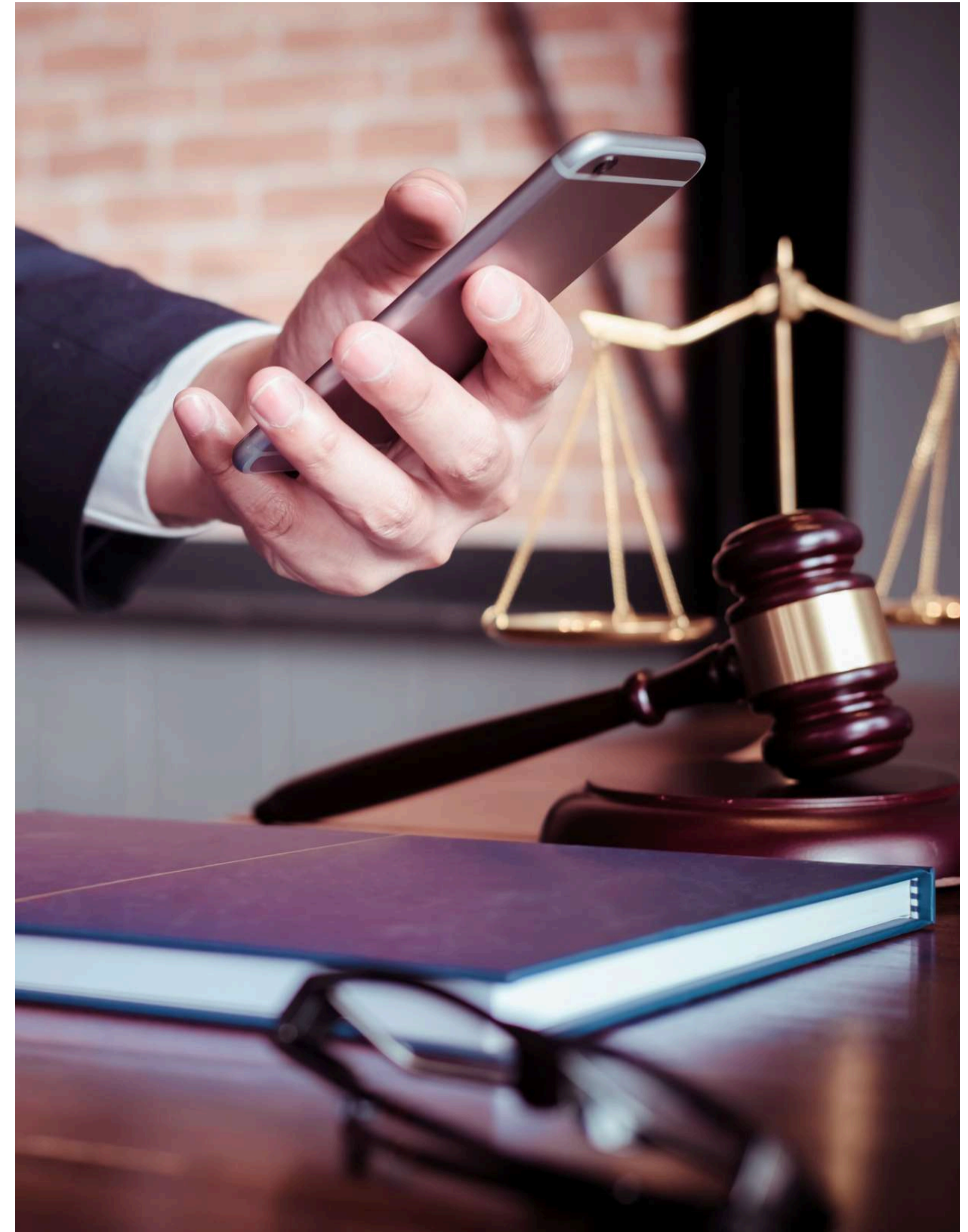
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provisions of this Act by a small company, or by any of its officer in default then such company, its officer in default shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default. As per data available on MCA website, Company was a small company.

Upon considering all the facts and statements submitted, Adjudication officer concluded that the company and its directors, who have defaulted the provisions of section 158 of Companies Act, 2013 shall be liable to a penalty under section 172 subject to section 446B of Companies Act, 2013.

Adjudication Order for Penalty for violation of Section 135 of the Companies Act, 2013 in the Matter of M/s. Ingeteam India Private Limited

The company has submitted an adjudication application for violating Section 135 of the Companies Act, 2013, due to its failure to either incur the required Corporate Social Responsibility (CSR) expenses or transfer an equivalent amount to a fund specified in Schedule VII of the Companies Act, 2013, within the prescribed time limit. This violation occurred after the company crossed the threshold of a net profit of 5 crores, as per the audited financial statement for the year ended December 31, 2021. However, the company subsequently rectified the default by transferring the unspent CSR amount to the designated fund specified in Schedule VII.



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Based on the application, the Adjudicating Authority issued a hearing notice to the company and its officers in default. The company's authorized representative explained that the default was unintentional.

According to Section 135 of the Companies Act, 2013, any company with a net worth of ₹500 crores or more, a turnover of ₹1000 crores or more, or a net profit of ₹5 crores or more in the immediately preceding financial year must establish a Corporate Social Responsibility (CSR) Committee. This CSR Committee is responsible for formulating and recommending a CSR Policy to the Board of Directors, along with the recommended expenditure to be allocated to CSR activities. The Board must ensure that at least 2% of the company's average net profits from the past three years are spent on CSR initiatives each year. If the company fails to spend the prescribed CSR amount, the Board is required, in its report under Section 134, to specify the reasons for not spending the amount. Unless the unspent amount relates to an ongoing project, the company must transfer the unspent amount to a fund specified in Schedule VII within six months after the financial year ends.

In case of default, the company is subject to a penalty equal to twice the amount that should have been transferred to the Fund or the Unspent CSR Account, or a penalty of ₹1 crore, whichever is less. Additionally, any officer of the company in default may be penalized with an amount equal to one-tenth of the required transfer or ₹2 lakh, whichever is less.

The Adjudicating Authority has now passed an order stating that the company has indeed defaulted under Section 135 of the Companies Act, 2013, and both the company and its officers in default are liable for penalties as prescribed under the Act.



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For any further assistance contact our team at kmt@vkalra.com

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