

Editorial 801

# **PENALTY FOR NON-FILING OF AOC-4 & MGT-7 WITHIN DUE DATE**

## **SHORT SUMMARY:**

As per Section 92 and 137 every Company,

- Shall file Annual Return within 60 days from the date which the Annual General Meeting held.
- Shall file financial statement along with other documents in AOC-4 within 30 days from the date which the Annual General Meeting held;

However, there are lot of Companies registered with Ministry of Corporate Affairs, which are not complying with Section 92 and 137 of Companies Act, 2013 and they file their Annual Return (MGT-7) and Financial Statement (AOC-4) after due date.

**Ques: Payment of Additional fees is enough for filing of forms after due Date or Companies are liable to pay penalties also?**

**Noncompliance of Section 92 is liable with penalty u/s 92(5)** i.e. such company and its every officer who is in default shall be liable to a penalty of Rs. 10,000/- and in case of continuing failure, with further penalty of Rs. 100 for each day during which such failure continues,

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subject to a maximum of Rs. 200,000/- in case of a company and Rs. 50,000/- in case of an officer who is in default.

**Noncompliance of Section 137 is liable with penalty u/s 137(3) i.e. -**

- The company shall be liable to a penalty of Rs. 10,000/- and in case of continuing failure, with a further penalty of Rs. 100 for each day during which such failure continues, subject to a maximum of Rs. 200,000/-

- and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the Directors of the company, shall be liable to a penalty of Rs. 10,000/- and in case of continuing failure, with further penalty of Rs. 100 for each day after the first during which such failure continues, subject to a maximum of Rs. 50,000/-.

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**Move by Hon'ble ROC Goa, Daman & DIU:**

As per Data available with MCA ROC Goa have issued adjudication orders to Topfun Technologies Private Limited for non-compliance of Section 92 and 137 of Companies Act, 2013.

In this editorial we will discuss one of That order:

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*“Adjudication Order in the Matter of  
Topfun Technologies Private Limited”*

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**I. FACTS OF THE CASE:**

- a. The company has not filed AOC-4 and MGT-7 for the financial year ended 31.03.2021.
- b. The offence is of serious nature since non-filing of Annual Account by the Company put itself out of reach of stakeholders/ regulatory authorities and other concerned.
- c. The provisions of Section 92 and 137 were violated by the company.

➤ **ORDER:**

Having considered the facts and circumstances of the case, and after taking into account the factors above, I hereby impose penalty as under

<b>Documents required to be filed</b>	<b>No. of days of default</b>	<b>Penalty imposed on Company and Director</b>	<b>Calculation of penalty</b>	<b>Maximum penalty can be imposed</b>	<b>Penalty imposed</b>
Financial Statement	262 days	On Company	Rs. 10,000 + Rs. 100*262=36,200	200,000	36,200

		Each Director (total 5)	Rs. 10,000 + Rs. 100*262=36,200 Per director	50,000 per director	36,200 Per director
Annual Return	232 days	On Company	Rs. 10,000 + Rs. 100*232=33,200	200,000	33,200
		Each Director (total 5)	Rs. 10,000 + Rs. 100*232=33,200 Per director	50,000 per director	33,200 Per director

- **No of days has been calculated from 31.01.2022 for Financial Statement till date of order (extended date of AGM was 30.11.2021)**
- **No. of days have been calculated from 02.03.2022 for Annual Return till date of order. (Extended date of AGM was 30.11.2021)**

### **Conclusion:**

It was really a great move by the ROC GOA against the Companies who are doing Non-compliance of Section 92 and 137 intentionally and not taking compliances of Companies Act Serious. It is our request as professional from all the ROCs in Country to take action and issue notice of adjudication against all such Companies who are not complying with compliances of provisions of Companies Act.

As the object of filing of AOC-4 and MGT-7 not only to do complete a clerical task. It is having different value like.

The actual object to filing the annual return of company with the public domain in the public interest, to enable the investors, public and whosoever interested in the Company can access the fundamental information about the Company and its management. Non-filing of this statutory return will result in denial of information to public about the company.

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**Author** - CS Divesh Goyal, GOYAL DIVESH & ASSOCIATES Company Secretary in Practice from Delhi and can be contacted at csdiveshgoyal@gmail.com).

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