

भारत सरकार
कापरेट कार्य मंत्रालय
कार्यालय कंपनीज रजिस्टार, दिल्ली एवं हरियाणा
चतुर्थ तल, आई.एफ.सी.आई. टॉवर, 61 नेहरू प्लेस,
नई दिल्ली -110019



GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS,
OFFICE OF REGISTRAR OF COMPANIES,
NCT OF DELHI & HARYANA
4TH FLOOR, IFCI TOWER, 61, NEHRU
PLACE, NEW DELHI -110019

No. ROC/D/Adj/2022/Section 149(1)/6648-6650

Dated 24.11.2022

Order for Penalty for Violation of Section 149(1) of the Companies Act, 2013

IN THE MATTER OF

**CAPARO MARUTI LIMITED
(U74899DL1994PLC058269)**

Adjudication in respect of violation of Companies Act, 2013.

1. Appointment of Adjudicating Officer: -

Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad.II, dated 24.03.2015 appointed undersigned as Adjudicating Officer in exercise of the powers conferred by section 454(1) of the Companies Act, 2013 (hereinafter known as Act) r/w Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

2. Company: -

Whereas the company viz **CAPARO MARUTI LIMITED** (herein after known as 'company') is a registered company with this office under the provisions of the Companies Act, 1956 having its registered office as per MCA21 Registry at address **1007 - 1010, 10th Floor, Kailash Building, 26 Kasturba Gandhi Marg, New Delhi, Central Delhi, Delhi, 110001, India.**

3. Law relating to Appointment of Women Director in company: -

Section 149:

(1) Every company shall have a Board of Directors consisting of individual as directors and shall have-

(a) A minimum number of three directors in the case of a public company, two directors in the case of a private company, and one director in the case of a One Person Company; and

(b) A maximum of fifteen directors:

Provided that a company may appoint more than fifteen directors after passing a special resolution:

Provided further that such class or classes of companies as may be prescribed, shall have at least one women director.

Rule 3 of the Companies (Appointment and qualification of Directors) Rules, 2014:

The following class of companies shall appoint at least one woman director-

(i) Every listed company

- (ii) Every other public company having-
- Paid-up share capital of one hundred crore rupees or more; or
 - Turnover of three hundred crore rupees or more:

Provided that a company, which has been incorporated under the Act and is covered under provision of second proviso to sub-section (1) of section 149 shall comply with such provisions within a period of six months from the date of its incorporation:

Provided further that any intermittent vacancy of a women director shall be filled-up by the Board at the earliest but no later than immediate next Board meeting or three months from the date of such vacancy whichever is later.

Explanation- For the purposes of this rule, it is hereby clarified that the paid-up share capital or turnover, as the case may be, as on the last date of latest audited financial statements shall be taken into account.

4. Facts about the Case: -

a) As per the Financial Statements filed by the company its Paid up share capital and turnover as on 31.03.2021 is as under:-

Paid up Share Capital	Rs. 100000700/-
Turnover	Rs. 4838285000/-

b) Date given in the Auditor's Report is 29.11.2021

c) The company is clearly required to appoint a woman director based on Rule 3(ii) of Companies (Appointment and qualification of Directors) Rules, 2014 as the Turnover of the company is more than 300 Crore.

d) A Show Cause Notice was issued to company and officers in default on 03.08.2022 in this regard. The company vide letter dated 09.08.2022 submitted its reply and as per request of company an opportunity of personal hearing was also given. Shri Dinesh Kumar Jain (practicing company secretary), authorized representative of the company appeared before the undersigned on 20.10.2022 and made submissions on behalf of the company. The company has also submitted additional written submission vide letter dated 04.11.2022.

5. Penalty Provision for violation : Non compliance of section 149 r/w Rule 3 of Companies (Appointment and qualification of Directors) Rules, 2014 would give rise to liability under section 172 which read as under:

Section 172:

If a company is in default in complying with any of the provisions of this Chapter and for which no specific penalty or punishment is provided therein, the company and every officer of the company who is in default shall be liable to a penalty of fifty thousand, and in case of 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.]

6. Adjudication of penalty: -

It is evident that the company has not complied with the provision of appointment of woman director. However, in its defense, the company vide its letters dated 09.08.2022 &

04.11.2022 and during personal hearing on 20.10.2022 through its authorized representative has submitted as follows:

It was submitted that there was woman director namely Ms. Anushka Sharma who had resigned from the company w.e.f. 27.10.2021 due to some reasons. The date of the Board Meeting held immediately subsequent to the resignation of the previous woman director was 28.10.2021. The company made its efforts to appoint appropriate person, but those efforts were not fruitful. However, subsequent to issue of show cause notice, woman director has been appointed. It was submitted that in any case non-executive directors should not be liable to any penalty on this account.

As per second proviso to Rule 3 of Companies (Appointment and Qualification of Directors) Rules, 2014, the company had a period of three months from the date of resignation to appoint a woman director. Therefore, the default is being reckoned from 27.01.2022 till the issue of show cause notice on 03.08.2022 or the date of resignation, whichever is earlier. For the purpose of determination of penalty, the following table is to be considered:-

Sl.No	Name of Officer in default/Company	Duration during which the officer served in the company during default period	No. of days of default
1	Company	27.01.2022 to 03.08.2022	189
2	VINOD KUMAR BAPNA	27.01.2022 to 03.08.2022	189
3	AKASH PAUL	Default is not being reckoned as the directors are non-executive.	
4	TUSHAR DEY		
5	BISWAJIT GHOSH		
6	ARUSH PAUL		
7	RAJIV GANDHI		
8	SANJEEB KUMAR MAHAPATRA	27.01.2022 to 04.05.2022	98

Accordingly the calculation of penalty is given as under:


Violation section	Penalty imposed on company/director(s)/KMPs	No. of days of default	Initial Penalty	Penalty for continuing default	Total Penalty imposed by the adjudication officer u/s 172 of Companies Act, 2013 (D+E) (subject to a maximum of 3 lakh rupees in case of a company and 1 lakh rupees in case of an officer who is in default.)
A	B	C	D	E	F
u/s 149 (1) of the Companies Act, 2013	Company	189	50000/-	94500/-	144500/-
	VINOD KUMAR BAPNA	189	50000/-	94500/-	100000/-
	SANJEEB KUMAR MAHAPATRA	98	50000/-		99000/-

7. Order:

- a. The company and its directors/KMPs are hereby directed to pay the penalty amount as per column no. 'F' of above Table. In case of directors such amount is required to be paid out of their own funds.
- b. The noticees shall pay the said amount of penalty through online by using the website www.mca.gov.in (Misc. head) in favor of "Pay & Accounts Officer, Ministry of Corporate Affairs, New Delhi, payable at Delhi, within 90 days of receipt of this order, and intimate this office with proof of penalty paid.
- c. Appeal against this order may be filed with the Regional Director (NR), Ministry of Corporate Affairs, B-2 Wing, 2nd Floor, Pt. Deendayal Antyodaya Bhawan, CGO Complex, Lodhi Road, New Delhi-110003 within a period of **sixty days** from the date of receipt of this order, in Form ADJ [available on Ministry website www.mca.gov.in] setting forth the grounds of appeal and shall be accompanied by a certified copy of the order. [Section 454(5) & 454(6) of the Act read with Companies (Adjudicating of Penalties) Rules, 2014].
- d. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.

Place: New Delhi.

Dated:


(Pranay Chaturvedi)
(Adjudicating Officer)
Registrar of Companies,
NCT of Delhi & Haryana

To,

1	Caparo Limited	Maruti	1007 - 1010, 10th Floor, Kailash Building, 26 Kasturba Gandhi Marg, New Delhi, Central Delhi, Delhi, 110001. Email: secretarial@caparo.co.in <i>(In term of provisions of section 20 of Companies Act, 2013, company is required to bring this notice to the knowledge of its officers who are in default)</i>
2	Vinod Kumar Bapna		H-72, First Floor, Residency Green, Sector-46, Gurgaon, 122003, Haryana, India
3	Sanjeeb Mahapatra	Kumar	Flat No.238, 2 nd Floor, Tower-10, Our Homesphase-I, Sector-37c, Gurgaon, Gurgaon, 122001, Haryana