

**Application No. RD (NWR)/ Appeal u/s 454 (5)/005/2022**

BEFORE THE REGIONAL DIRECTOR, NORTH-WESTERN REGION,  
MINISTRY OF CORPORATE AFFAIRS, AHMEDABAD

IN THE MATTER OF  
THE COMPANIES ACT, 2013

**Section 454 Adjudication of Penalties.**

In the matter of Appeal under sub (5) of Section 454 of the Companies Act, 2013 read with Rule 4 of the Companies (Adjudication of Penalties) Rules, 2014 against the adjudication order passed by ROC, Ahmedabad dated 14.03.2022.

In the matter of adjudication for non-compliance of Section 82 read with 454(3) of the Companies Act, 2013.

And

In the matter of

**1. Shrinidhi Safe Vault Private Limited**

Basement SY No. 6/2152-2153,  
Sahajanand Chamber, Pipla Sheri,  
Mahidharpura, Surat-395003.

**2. Vanubhai Nagjibhai Sutariya, Director**

19-20, Narayan Muni Soc,  
Swaminarayan Gurukul,  
Ved Road, Surat-395004.

**3. Hiteshkumar Bhikhabhai Sutariya, Director**

14 to 18, Narayanmuni Nagar Soc,  
Ved Road, Surat -395004.

**4. Hardik Vanmalibhai Sutaria, Director**

19-20, Narayan Muni Soc,  
Swaminarayan Gurukul,  
Ved Road, Surat-395004.

..... Applicants

V/s

**Registrar of Companies, Ahmedabad, Gujarat**

..... Respondent

Date of Hearing: - **02.09.2022**

- Present: -
1. Shri Kunjal Dalal, Practicing company secretary & Authorized Representative of the Applicants.
  2. Shri B.R. Ambedkar, Assistant Director, O/o RD (NWR) Ahmedabad.

**ORDER**

Shrinidhi Safe Vault Private Limited has filed an appeal u/s. 454 of the Companies Act, 2013 in E-form ADJ vide SRN T96469622 dated 20.04.2022 before

Regional Director, North- Western Region, Ahmedabad against the Ex-Parte order passed by the Adjudicating Authority i.e. Registrar of Companies, Gujarat on 14.03.2022.

**Facts of the Case: -**

1. Pursuant to Section 82 of the Companies Act, 2013 and in exercise of powers vested with him under sub-Section (3) of Section 454 of the Companies Act, 2013, Registrar of Companies, Ahmedabad issued order dated 14.03.2022. The gist of the said order is as under: -

- i. It is observed from the order dated 21.06.2021 passed by Hon'ble NCLT based on the representation made by the Regional Director (NWR), Ahmedabad in the matter of Arrangement between Shrinidhi safe Vault Private Limited (Demerged Company) and Laxminarayan Safe Deposit Vault Private Limited (Resulting Company), it has mentioned therein that the Shrinidhi Safe Vault Private Limited does not have any secured Creditors as on 28.02.2021. However, MCA portal shows two secured open charges in favour of two charge Holders namely (i) The Cosmos Co-operative Bank Limited amounting to Rs. 27,00,000 in respect of collateral security for entire cash credit facilities availed by M/s. Harikhrishna Laser Technology & M/s. Shri Nidhi Retreads and (ii) State Bank of India for Rs. 30,00,000 in respect of immovable property offered as security to secure facility granted to Shree Hari Laser. Therefore, it is revealed that the Company has failed to file satisfaction of charge in pursuance to section 82 of the Companies Act, 2013 read with Rule 8 of Companies (Registration of Charges) Rules, 2014.
- ii. The ROC being adjudicating officer is empowered u/s. 454 (3) of the Companies, Act, 2013 to adjudicate the penalty for Non-compliance of certain provisions of the Companies, Act, 2013. Therefore, ROC has issued Adjudication notice dated 17.09.2021 to the Company and its officers in default for violation of section 82 of the Companies Act, 2013 read with Rules made thereunder.
- iii. Thereafter, a written notice was issued to the Company and its officers in default on 12.01.2022 and hearing was fixed on 25.01.2022. ROC has passed order in exercise of power conferred under sub section 3 of section 454 of the Companies Act, 2013 on 14.03.2022 comprising the facts of the case with a direction to pay the penalty against the Adjudicating notice.
- iv. The order dated 14.03.2022 passed for violation of section 82 of the Companies Act, 2013 against the company and its three directors namely Mr. Hardik Sutaria, Mr. Vanubhai Sutaria and Mr. Hiteshkumar Sutaria who are

officers in default and as per sec. 86 of the companies Act, 2013, penalty of Rs. 5,00,000/- imposed on the Company and Rs. 50,000/- each on the Directors for violation in terms of Section 82 of the Companies Act, 2013.

2. That Shrinidhi Safe Vault Private Limited, the Company and its Directors have filed the present Appeal under the provisions of Sec. 454(5) of the Companies Act, 2013 challenging the order dated 14.03.2022 made by Adjudicating Officer:

- 1) The applicant company is an unlisted private company incorporated in the year 1991 for the purpose of providing safe deposit vault facility in city of Surat.
- 2) The applicant company is a closely held company with four shareholders of a family holding entire capital of the company.
- 3) In response to the notice dated 17.09.2021 of Adjudicating Officer, the matter was clarified by the company vide letter dated 04.10.2021 that the open charges are in respect of collateral securities for credit facilities availed by other entities since the credit facilities were not in respect of borrowing by the company.
- 4) Hence, the company stated in application filed before Hon'ble NCLT that the company do not have any secured creditors.
- 5) The adjudication officer stated in the order dated 14.03.2022 that the company has created charge id for creation of charge dated 28.09.1998 & 27.11.2008 however failed to file satisfaction of charges in pursuance of sec. 82/87 of the Companies Act, 2013.
- 6) The charges are not deemed to have been satisfied on expiry of repayment terms as per sanction letter. The cash credit limits are subject to review and renewal every year and it is not proper to presume that the charges are satisfied on expiry of limits as per sanction letter unless the amounts are actually repaid/satisfied.
- 7) The obligation to file satisfaction of charge u/s. 82 arises only when the charges are repaid/satisfied in full. The presenting officer has failed to prove that the charges are actually repaid/satisfied.
- 8) The presenting officer has made a misleading statement that the company is not a small company since it has one subsidiary. It is submitted that on the date of hearing and passing of order, the company is a small company since on demerger the investment in subsidiary has been squared up in terms of scheme of demerger approved by Hon'ble NCLT and taken on record by ROC.

3. ROC, Ahmedabad has submitted its report dated 17.06.2022 in the captioned matter raising strong objection against the appeal filed by the

appellants and reiterated the facts mentioned in the adjudication order dated 14.03.2022. It is further stated that the penalty imposed under the given circumstances are justified and hence may not deserve for any intervention by the Appellate Authority in the interest of justice. As such the penalty imposed by the Adjudicating Officer is as per the statutory provisions of Law for the relevant default. Therefore, the ROC humbly prays that adjudication order dated 14.03.2022 may be confirmed and the appellants may be directed to comply the order as per the terms and conditions as may be decided by the Appellate Authority in the matter, the appeal of the appellants is not sustainable in Law as observed hereinabove.

4. Thereafter, the hearing on appeal has been conducted before the Directorate on 02.09.2022. ROC office has not attended the hearing. Mr. Kunjal Dalal, Practicing Company Secretary & Authorized Representative of the applicant was present in the hearing.

5. Keeping in view the facts and circumstances of the case and the size of the Company, the penalty has been reduced to 50% of the order of the Adjudicating Authority and accordingly an amount Rs. 2,50,000/- (Rs. Two Lakh Fifty Thousand Only) has been imposed on the company and an amount of Rs. 25,000/- (Twenty Thousand Only) on each applicant directors.

The Penalties had been paid by the applicant as follows: -

Sr. No.	Name of the Applicants	Amount (Rs.)	SRN & Date
1.	Shrinidhi Safe Vault Private Limited	2,50,000/-	X24383846 Dated 19.09.2022
2.	Mr. Vanubhai Nagjibhai Sutariya, Director	25,000/-	X24361164 Dated 18.09.2022
3.	Mr. Hiteshkumar Bhikhabhai Sutariya, Director	25,000/-	X24362220 Dated 18.09.2022
4.	Mr. Hardik Vanmalibhai Sutaria, Director	25,000/-	X24360372 Dated 18.09.2022

The appeal stands disposed off with these orders.

LADU RAM  
MEENA  
Digitally signed by LADU RAM  
MEENA  
Date: 2022.11.28 11:09:23 +05'30'  
REGIONAL DIRECTOR  
(NWR) AHMEDABAD

To,

- Shrinidhi Safe Vault Private Limited**  
Basement SY No. 6/2152-2153,  
Sahajanand Chamber, Pipla Sheri,  
Mahidharpura, Surat-395003.

2. **Vanubhai Nagjibhai Sutariya, Director**  
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3. **Hiteshkumar Bhikhabhai Sutariya, Director**  
14 to 18, Narayanmuni Nagar Soc,  
Ved Road, Surat -395004.
4. **Hardik Vanmalibhai Sutaria, Director**  
19-20, Narayan Muni Soc,  
Swaminarayan Gurukul,  
Ved Road, Surat-395004.
5. **The Secretary to the Government of India,**  
Ministry of Corporate Affairs,  
New Delhi.
6. **The Registrar of Companies, Ahmedabad**
7. **Master File.**
8. **Office Copy.**

RAMAAMBEDKAR Digitally signed by  
BASANAGIRI RAMAAMBEDKAR BASANAGIRI  
Date: 2022.11.24 11:25:15 +05'30'  
ASSISTANT DIRECTOR