

CONSEQUENCIES OF NON-FILING/ DELAY FILING OF MSME-1

SHORT SUMMARY:

Many professionals have asked in many Whatsapp Groups, Social Media Platforms “**significances of non-filing or delay filing of e-form MSME-1**”. In this editorial author shall discuss about the penalties/ fines for delay in filing of MSME-1:

A. EXTRACT OF LAW:

Section 450: If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be liable to **a penalty of ten thousand rupees**, and in case of continuing contravention, with a **further penalty of one thousand rupees for each day after the first during which the contravention continues**, subject to a maximum of **two lakh rupees** in case of a company and **fifty thousand rupees in case of an officer who is in default or any other person.**

B. IMPACT ON COMPANY:

MSME-1 form introduced under Companies Act, 2016 u/s 405 by using power of Central Government. There is no penalties/ fine are prescribed under Section 405 of the Companies Act, 2013.

Further, there is one Section 450 under Companies Act, which states that if there is no penalty prescribed for any section/ rules in then penalty shall be levy as per Section 450.

A. Consequence – Additional Fees

As e-form MSME-1 doesn't having any fees. Its file with ROC with NIL fees. Further, CG has not prescribed any additional fees on MSME-1. Therefore, even if company has filed its MSME-1 after due date it is not required to pay any additional fees.

B. Consequence – Penalty

As Section 450 prescribed penalty in case of default of section 405 of Companies Act, 2013.

Penalty on Company:

A penalty of ten thousand rupees, and in case of continuing contravention, with a further penalty of one thousand rupees for each day after the first during which the contravention continues, subject to a maximum of two lakh rupees in case of a company

Penalty on Director:

Fifty thousand rupees in case of an officer who is in default or any other person

C. ADJUDICATION NOTICE BY ROC

If a Company file MSME-1 after Due Date or fails to file MSME-1 form, legally company is liable for penalty u/s 450 of Companies Act, 2013.

As per Section 454, ROC having power to issue notice of adjudication to Company. In case of adjudication notice ROC can't reduce the penalty amount below minimum penalty.

*Many order of adjudication of different-2 forms has been uploaded on MCA website for reference.

CONCLUSION:

It is wrong to say that, there is non consequences/ penalties on delay filing of MSME-1. Every section, rule, form having their penalties under Companies Act in case of non-compliance. **Like in default of filing of MSME-1 cause penalty of Lakhs on the Company.**

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