

**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE**

AT: - AHMEDABAD

CRIMINAL INQUIRY NO: - 9548 OF 2023

ORDER: - EXIHIBIT - 1

1) The Complainant has filed this Complainant **UNDER SECTION 129(7) OF THE COMPANIES ACT 2013 FOR CONTRAVENTION OF SECTION 129 OF THE COMPANIES ACT, 2013**, against **M/S. S.K. MASALA AND FOODS LIMITED**, CIN No. **U15549GJ2017PLC096061** and its directors in default which was kept under Section 202 of the ***Code of Criminal Procedure***.

2) In the Inquiry the Prosecution has produced following evidence.

I. DEPOSITION OF BANDU BURDE, UDC, from the office of Registrar of Companies, Gujarat.

II. DESCRIPTION OF DOCUMENTS: -

1. A Copy of the Signatory details as available in the MCA Portal is annexed herewith and marked as **"ANNEXURE-A"**.
2. The Copy of Ministry letter no. F. No. 03/380/2020-CL-II (NWR) dated 12.01.2021, is annexed herewith and marked as **"ANNEXURE-B"**
3. A Copy of the Regional Director letter No. RD (NWR)/Sec 206/336/2020//3467 dated 17.11.2022 is enclosed herewith and marked as **Annexure-"C"**.

4. A Copy of Complainant's office issued a Notice No. ROC/ TS /S.K. Masala/096061/2022/4138 to 4143 dated 25.08.2022 (**Annexure-‘D’**).

3) I have heard Company Prosecutor and perused relevant Provision of the Company Act, 2013 as well as papers on record.

4) **Section 435(1) of the Companies Act 2013** state that ;“

435. Establishment of Special Courts.

Notified Date of Section: 18/05/2016

*1[(1) The Central Government may, for the purpose of providing speedy trial of 2[offences under this Act, except under section 452, by notification] establish or designate as many **Special Courts as may be necessary.*

*(2) A **Special Court shall consist of—*

(a) a single judge holding office as Session Judge or Additional Session Judge, in case of offences punishable under this Act with imprisonment of two years or more; and

(b) a Metropolitan Magistrate or a Judicial Magistrate of the First Class, in the case of other offences,

who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.]

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding office of a Sessions Judge or an Additional Sessions Judge.

Meaning thereby, **if trial of offences punishable under this act less than imprisonment of two years, then or more Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this act or under any previous company law.**

- 5) Looking to the Complaint, it appears that the accused who is officer-in default for **UNDER SECTION 129(7) OF THE COMPANIES ACT 2013 FOR CONTRAVENTION OF SECTION 129 OF THE COMPANIES ACT, 2013** is liable for punishment for above offence **UNDER SECTION 129(7) OF THE COMPANIES ACT 2013 FOR CONTRAVENTION OF SECTION 129 OF THE COMPANIES ACT, 2013**. The Complainant has mentioned in their Complaint as under: -

“It is observed from the Financial of FY 2016-17 that against the revenue of Rs. 7 Cr, the company has created Debtor of Rs. 13 Cr which is not possible. Further, from the books of account, it appears that the company has created artificial Trade Debtor and Creditor to create the Networth for availing loan and SME IPO purposes. Hence, the books of account of the company is not creating true and fair view. Thus, directors and KMPs and Auditors have contravened the provision of Section 129 of the Companies Act, 2013. Explain, why the legal action for violation

of the said section should not to be initiated against the company, its directors and officers in defaults.”.

6) Thus, looking to the punishment prescribed for **UNDER SECTION 129(7) OF THE COMPANIES ACT 2013 FOR CONTRAVENTION OF SECTION 129 OF THE COMPANIES ACT, 2013** this Court have Jurisdiction to entertain the complaint as per section 435 of the Companies Act, 2013 and the Complainant had filed the said complaint on 08.06.2023, which is within limitation as provided under *Section 468 of the CRPC*.

7) Thus, looking to the Complaint as well as documents which are produced along with the Complaint, I am of the view that there is sufficient reason to register the complaint hence in the interest of Justice I pass following order: -

// ORDER//

- The Complaint is hereby ordered to be registered and issue summons to all the **accused** for the offence **UNDER SECTION 129(7) OF THE COMPANIES ACT 2013 FOR CONTRAVENTION OF SECTION 129 OF THE COMPANIES ACT, 2013** returnable on 07/04/2025, under Section 204(1) of the Code of Criminal Procedure.

- Criminal Inquiry is disposed off accordingly.

Date:-06 /01 /2025.

(S. J. PANCHAL)
(CODE NO: -00864)
ADD. CHIEF JUDICIAL
MAGISTRATE
AHMEDABAD