

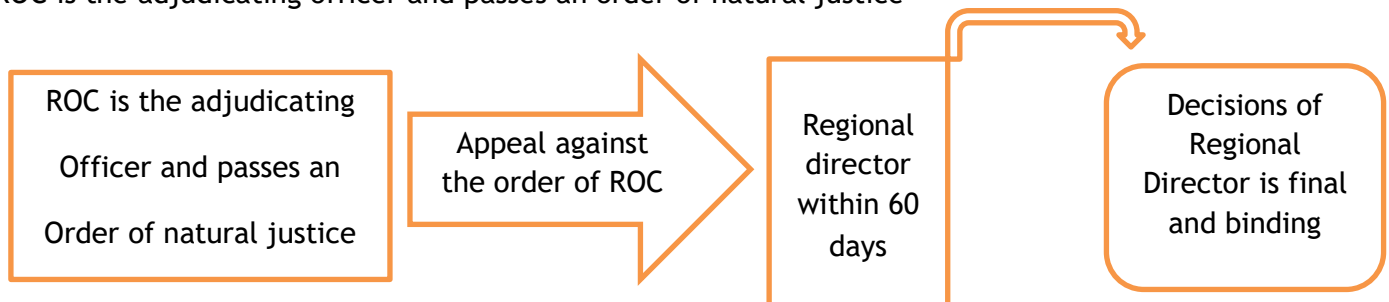
## UNDERSTANDING SECTION 454: ADJUDICATING PENALTIES WITH THE ROC AND RD

### • ADJUDICATION OF PENALTIES

The power of adjudicating penalty has been vested with ROC. The ROC will provide reasonable opportunity of being heard to both the parties and impose penalty.

In case any person is aggrieved by order of the ROC, he may prefer an appeal to the concerned regional director **within a period of 60 days** and the decision of regional director on the matter shall be final and binding.

ROC is the adjudicating officer and passes an order of natural justice



### • ADJUDICATION OF PENALTIES (SECTION 454)

- 1) The Central Government may appoint officers of the Central Government not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act.
- 2) The adjudicating officer may, by an order-
  - a. impose the penalty on the company, the officer who is in default, or any other person, stating non-compliance or default under the relevant provisions of this Act; and
  - b. Direct such company or officer who is in default, or any other person, to rectify the default, wherever he considers fit.
- 3) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such company, the officer who is in default or any other person.
- 4) A provision has been added to section 454 of Companies Act, 2013 for rectifying the default under section 92(4) or 137(2) either prior to, or within thirty days of, the issue of the notice by the adjudicating officer. It provides that no penalty shall be imposed in this regard and all proceedings under this section in respect of such default shall be deemed to be concluded.
- 5) Any person aggrieved by an order made by the adjudicating officer may prefer an appeal to the Regional Director having jurisdiction in the matter.
- 6) Every appeal shall be filed within 60 days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in form, manner and be accompanied by such fees as may be prescribed.
- 7) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order against which an appeal has been filed.
- 8) If company fails to comply with the order within a period of ninety days from the date of the receipt of the copy of the order, the company shall be punishable with fine which shall not be less than 25,000 rupees but which may extend to 5 lakh rupees.

- 9) If an officer of a company or any other person who is in default fails to comply with the order within a period of ninety days from the date of the receipt of the copy of the order, **such officer shall be punishable with imprisonment which may extend to 6 months or with fine which shall not be less than 25000 rupees but which may extend to 1 lakh rupees, or with both.**

#### **PENALTIES FOR REPEATED DEFAULT (SECTION 454A)**

Where a company, officer of a company or any other person having already been subjected to penalty for default under any provisions of this Act, again commits such default within a period of 3 years from the date of order imposing such penalty passed by the adjudicating officer or the Regional Director, he shall be liable for the second or subsequent defaults for an amount equal to **twice the amount of penalty** provided for such default under the relevant provisions of this Act.