

BEST ANSWER - CASE STUDY - MAY, 2026

OVERVIEW OF THE DISPUTE

NTL, a public limited unlisted company, resolved through its Board to raise funds via preferential allotment of **16,766 equity shares of ₹10 each**. A Registered Valuer determined the fair value at **₹334.59 per share**. The Company, however, allotted shares at **₹334 per share**, reasoning that rounding off was permissible. Upon discovery of the deviation, the Company recovered the differential of ₹0.59 per share along with 12% interest and filed a suo motu adjudication application before the Registrar of Companies (ROC).

Despite this rectification, the ROC held that the allotment violated **Section 62(1)(c) of the Companies Act, 2013** read with Rule 13(3) of the Companies (Share Capital and Debentures) Rules, 2014, and imposed penalty under **Section 450 of the Act**. Two core legal issues arise for determination.

I. ISSUE 1: WHETHER ISSUING SHARES AT A PRICE LOWER THAN THE VALUATION REPORT, EVEN marginally, VIOLATES SECTION 62(1)(C)?

A. Section 62(1)(c) — Further Issue of Shares

Section 62(1)(c) of the Companies Act, 2013 governs the further issuance of shares by a company. It permits a company to issue shares to any persons, whether or not those persons include its existing members, subject to the condition that such issuance is *“approved by a special resolution and at such price, as determined by a registered valuer.”*

Rule 13(3) of the Companies (Share Capital and Debentures) Rules, 2014, reinforces the mandate of Section 62(1)(c). It explicitly states that *“the price of the shares or other securities to be issued on a preferential basis shall not be less than the price determined by the registered valuer.”* This rule closes any ambiguity and leaves no room for discretion, rounding, or approximation.

The provision creates a statutory floor for the issue price in a preferential allotment. The legislature has used the phrase ‘not less than the price determined by a registered valuer’ — this is a condition precedent, not a directory guideline. Any price below the valuation report constitutes a per se violation of this provision.

B. The Statutory Language is Unambiguous and Absolute

The expression *“not less than”* in Section 62(1)(c) and Rule 13(3) is a binary threshold — either the issue price equals or exceeds the valuation, or it does not. The statute does not recognize any de minimis exception, rounding-off allowance, or materiality threshold. In statutory interpretation, where language is plain and unambiguous, the courts are not at liberty to depart from the ordinary meaning of the words used.

Govind Das v. ITO
[AIR 1976 SC 1813]

The Supreme Court held that when a statute speaks in clear and unambiguous terms, there is no need to look to other aids of construction. The plain words of the statute must be given effect.

C. The Doctrine of De Minimis Non Curat Lex Does Not Apply

The Company may attempt to invoke the maxim *de minimis non curat lex* (the law does not concern itself with trifles) to argue that ₹0.59 per share is too trivial to attract regulatory sanction. This argument must fail for the following reasons:

- The de minimis doctrine applies where the breach is so insignificant that no harm results and no statutory purpose is frustrated. Here, the statutory purpose — ensuring allotment at fair value — is frustrated by any sub-valuation price.
- The aggregate differential (₹0.59 × 16,766 shares = ₹9,891.94) is not negligible in statutory terms; it represents an actual quantifiable shortfall in consideration.

Dilip Kumar & Co. v. CC
[2018 (9) SCC 1] (SC Full Bench)

The Supreme Court held that exemption/benefit provisions in fiscal statutes must be strictly construed, and de minimis cannot be invoked to bypass clear statutory mandates. Compliance provisions must be read strictly.

D. Judicial and Regulatory Precedents Supporting Strict Compliance

SEBI v. Cabot International Capital Corp. [2004] 51 SCL 307 (SAT)

The Securities Appellate Tribunal upheld that pricing regulations in capital issuance are mandatory compliances; any deviation, however minor, attracts regulatory consequences.

Similar RoC Order PO/ADJ/04-2026/BL/01948, dated 16/04/2026

The ROC, in the analogous fact situation, expressly held that even a marginal deviation in issue price below the registered valuer's determined price constitutes a violation of Section 62(1)(c) r/w Rule 13(3), and cannot be excused on grounds of rounding or bona fide intent.

ISSUE 1: YES — Issuing shares at ₹334 per share when the valuation report determined the fair value at ₹334.59 per share is a clear, unequivocal violation of Section 62(1)(c) of the Companies Act, 2013 read with Rule 13(3) of the Companies (Share Capital and Debentures) Rules, 2014. The statutory mandate is absolute; the deviation, however marginal, is legally impermissible. The rounding-off rationale is unsupported by any provision of law.

II. ISSUE 2: WHETHER SUBSEQUENT RECTIFICATION, SUO MOTU APPLICATION, AND ABSENCE OF MALA FIDE INTENT ABSOLVE LIABILITY UNDER SECTION 450?

A. Section 450 — Residual Penalty Provision

Section 450 of the Companies Act, 2013 provides for punishment where no specific penalty is prescribed elsewhere. It states: where a company or any officer thereof or any other person contravenes any provision of the Act or rules thereunder, for which no penalty or punishment is provided elsewhere in the Act, the company, every officer thereof and the other person shall be liable to a penalty of ₹10,000, and in case of continuing contravention, a further penalty of ₹1,000 per day, subject to a maximum of ₹2,00,000 for the company and ₹50,000 for its officers.

It is a residual penal provision that imposes penalty for contravention of any provision of the Act or Rules for which no specific penalty is prescribed elsewhere. Its language is absolute and unqualified — it prescribes **no exception for subsequent rectification, voluntary disclosure, or absence of fraudulent intent**. Once a violation is established, the liability to penalty under Section 450 is automatic; the adjudicating officer has no power to waive it entirely.

The violation of Section 62(1)(c) was complete at the moment of allotment. What followed — recovery of the differential, 12% interest, and suo motu admission — does not retroactively cure that act. These factors are, at best, relevant to the **quantum of penalty**: they may justify the adjudicating officer imposing the minimum of ₹10,000 per person rather than the maximum of ₹2,00,000 (company) / ₹50,000 (officer), and limiting the continuing default penalty to the period prior to rectification. They do not, however, constitute a legal defence to liability.

Where the legislature intends to shield a defaulter through compliance, it provides an express mechanism — such as **Section 441 (Compounding of Offences)**, which involves a separate application and approval process. No such protection flows automatically from rectification alone under Section 450.

Issue 2 — Held

Section 450 contains no savings clause for rectification. The violation having been committed and admitted, penalty is mandatorily attracted. Suo motu disclosure and recovery of differential with interest are mitigating factors going to quantum only — not defences to liability. The ROC's order is legally correct.

B. Conclusion on Issue 2

ISSUE 2: NO — Subsequent rectification (recovery of differential with interest), suo motu disclosure, and absence of mala fide intent do not absolve NTL or its officers from liability under Section 450 of the Companies Act, 2013. The violation was complete upon allotment at below-valuation price. Rectification is a mitigating factor relevant to penalty quantum, not an exonerating defence. Penalty is properly attracted and maintainable.