

F.No:9/26/ADJ/SEC.203/2013/KARNATAKA/RD(SER)/2022

16132

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF FLUICONNECT INDIA PRIVATE LIMITED

1. M/s. Fluiconnect India Private Limited
2. Mr. Chandra Pratap, Director
3. Mr. Jayaramachandran Giridhar, Director
4. Mr. Giuseppe Bucci, Director
5. Mr. Luca Pozzi, Director
6. Ms. Prashant Sadanand Shanbhag, Director

Appellants

Date of hearing : 20.11.2023

Present : Mr. Shripad G Bhat, PCS

ORDER

This is an appeal filed under section 454(5) of the Companies Act, 2013 by the above appellants in e-form ADJ vide SRN F65198897 dated 27.09.2023 against the adjudication order No. ROC(B)Adj.Ord.454-203/Fluiconnecto/Co.No.111072/2023 dated 09.08.2023 under section 454 passed by the Registrar of Companies, Karnataka for default in compliance with the requirements of Section 203 read with Rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014.

2. Registrar of Companies in his order of adjudication has stated that the company has filed a suo-motu application on 16.03.2023 regarding non-appointment of whole-time company secretary i.e., violation of section 203 of the Act. The company has submitted that its paid-up capital crossed the required threshold of Rs.5 crores on 02.06.2015 and it was required to appoint a company secretary from this date, but it has failed to appoint a company secretary for the period starting from 02.06.2015 to 30.11.2018 and again from 01.12.2019 to 30.06.2022 after the resignation of the incumbent company secretary. Hearing was held before Registrar of Companies on 24.05.2023 and after hearing the authorized representative had levied a penalty of Rs.5.00 Lakhs on the Company and 6 directors i.e., Mr. Chandra Pratap Mr. Jayaramachandran Giridhar, Mr. Giuseppe Bucci, Mr. Michael Peter Wallwork, Mr. Luca Pozzi and Ms. Prashant Sadanand Shanbhag (total aggregating to Rs.35.00 Lakhs).



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3. An opportunity of being heard was given to the Appellants on 20.11.2023. The authorized representative Mr. Shripad G Bhat Sarang, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted that the Appellants has made their best effort to appoint the Whole Time Company Secretary during the defaulting period. However, the company has not found the suitable candidates for the available position due to less exposure in Private Company and pay scale. The work related to secretarial is limited in the company and hence, company was looking for the candidate who could do the multiple job description. However, the Company could not find any such candidate during the defaulting period. The Appellant further submit that, due to the above reason, the petitioners failed to appoint the Whole Time Company Secretary of the Company; hence, there was an inadvertent contravention by the Petitioners in complying with the provisions of Section 203 of the Companies Act, 2013 and Rule 8A of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014. Further with great efforts, the company and its Directors took necessary steps to comply with the same and thereafter, appointed the Whole Time Company Secretary by the Board of Directors of the Company on 01st July 2022.

4. Though there is a default committed, there is a ground in interfering with the impugned adjudication order of Registrar of Companies to the extent of reducing the quantum of penalty due to the reasons as stated above.

Taking into consideration the facts of the appeal and submissions made by the authorized representative. I deem it would meet the end of justice if the penalty imposed by Registrar of Companies is reduced for the Company and 5 directors (who are the appellants filed the appeal) i.e., Mr. Chandra Pratap Mr. Jayaramachandran Giridhar, Mr. Giuseppe Bucci, Mr. Luca Pozzi and Ms. Prashant Sadanand Shanbhag amounting to Rs.75,000/- each (total aggregating to Rs.4,50,000/-). The appellants are directed to comply with this order and also provisions of Section 454(8) of the Companies Act, 2013 read with Companies (Adjudication of Penalties) Rules, 2014.

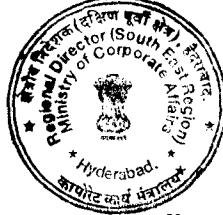
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4(a) Further Mr. Michael Peter Wallwork, Director who is one of the officers in default as stated by Registrar of Companies in his adjudication order dated 09.08.2023 has neither filed appeal nor paid the penalty imposed as per the Registrar of Companies Adjudication Order dated 09.08.2023. This has been taken up with Registrar of Companies and Registrar of Companies vide letter dated 21.12.2023 has stated that as per records Mr. Michael Peter Wallwork, Director has not remitted the penalty amount as levied vide Adjudication Order passed by Registrar of Companies dated 09.08.2023. Accordingly, Registrar of Companies is directed to take necessary action against Mr. Michael Peter Wallwork, Director as per Section 454(8) of the Companies Act, 2013

5. Accordingly, penalty was paid by the Company and 5 directors i.e., Mr. Chandra Pratap Mr. Jayaramachandran Giridhar, Mr. Giuseppe Bucci, Mr. Luca Pozzi and Ms. Prashant Sadanand Shanbhag amounting to Rs.75,000 each (total aggregating to Rs.4,55,000/-) vide SRN's X59476234, X59475673, X59475327, X59475863, X59475178 and X59475186 dated 27.11.2023 respectively. Accordingly, this order is issued to the Appellants with a copy to Registrar of Companies, Karnataka and Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi for information and necessary action.

Issued under my hand and seal on this the 05th day of January 2024.



(DR. RAJ SINGH)
REGIONAL DIRECTOR (SER)
HYDERABAD

Copy for information and necessary action to :


1. M/s. Fluiconnecto India Private Limited
No.156, 5th Main, Peenya Industrial Suburb
II Stage, Bangalore, Karnataka- 560058.
2. Mr. Chandra Pratap, Director
Purva Windermere, Flat No.A6-602, Thiruvalluvar
Salai, Pallikaranai, Chennai, Tamil Nadu – 600100.

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3. Mr. Jayaramachandran Giridhar, Director
G2, Aishwarya Lakshmi Apartments 72/G2, Thirumalai
Pillai Road Lane, T Nagar, Chennai, Tamil Nadu- 600017.
4. Mr. Giuseppe Bucci, Director
C/o. M/s. Fluiconnecto India Private Limited
No.156, 5th Main, Peenya Industrial Suburb
II Stage, Bangalore, Karnataka- 560058.
5. Luca Pozzi, Director
C/o. M/s. Fluiconnecto India Private Limited
No.156, 5th Main, Peenya Industrial Suburb
II Stage, Bangalore, Karnataka- 560058.
6. Prashant Sadanand Shanbhag, Director
No.12, flat no.102, Everjoy Residency, 5th Main, 6th Cross,
Vallabhanagar, Uttarahalli, Bangalore, Karnataka- 560061.
7. Registrar of Companies, Ministry of Corporate Affairs, Karnataka, Bangalore is advised
to take necessary action as stated at para 4 of the order.
8. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.




(DR. RAJ SINGH)
REGIONAL DIRECTOR (SER)
HYDERABAD