

F.No:9/03/ADJ/SEC.135/2013/TELANGANA/RD(SER)/2023/5776,

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF KONY INDIA PRIVATE LIMITED

1. M/s. Kony India Private Limited
2. Mr. S.P. Jayanathan, Director
3. Mr. Kaliyakudi Viswanathan, Director
4. Mr. Pradeep Kanakath, Director
5. Mr. Suresh Bharathan, Director

Appellants

Date of hearing : 09.10.2023

Present : Mr. Y Ravi Prasad Reddy, 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 F59808378 dated 22.03.2023 against the adjudication order No. ROCH/U72200TG2007PTC056014/TELANGANA/135 OF 2013/2023 dated 22.02.2023 under section 454 passed by the Registrar of Companies, Telangana for default in compliance with the requirements of Section 135(6) of the companies Act, 2013.

2. Registrar of Companies in his order of adjudication has stated that the company pursuant to section 135(6) of the Act was required to transfer the unspent amount of Rs. 42,09,263/- of ongoing CSR Projects to a special account to be opened by the company in a schedule bank to be called as to Unspent Corporate Social Responsibility Account, within a period of thirty days from the end of the financial year i.e., on or before 30.04.2021. However, the company has failed to transfer the said unspent amount to Unspent Corporate Social Responsibility Account of the company within a period of thirty days from the end of the financial year i.e., on or before 30.04.2021 resulted in violation of Section 135(6) of the Companies Act, 2013 and liable for penal action of the Act under Section 135(7) of the Act.

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Further Registrar of Companies has stated that the company has transferred the unspent amount of Rs.42,09,263/- to Unspent Corporate Social Responsibility Account on 30.09.2021.

3. An opportunity of being heard was given to the Appellants on 09.10.2023. The authorized representative Mr. Y Ravi Prasad Reddy, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and also stated that the company has an amount of Rs.42,09,263/- unspent as on 31.03.2021, which as per the provisions of Section 135(6) of the Act is required to be transferred to Unspent Corporate Social Responsibility Account on or before on 30.09.2021 i.e. with the delay of five months. Further also submitted that the main reasons for the delay in compliance with the provisions of Section 135(6) of the Companies Act, 2013 as follows:

(a) The said provisions have been notified on 22.01.2021 only and being first year to implement the new provisions.

(b) The entire country suffered from second wave of COVID 19 and office was not functioning in normal way for several months till July, 2021.

(c) Company is a small private company with the paid up capital of Rs.3.33 Crores and not having Company Secretary to advise the company about the required compliance. The appellants have no knowledge about the new provisions of Section 135(6) of the Companies Act, 2013

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 to Rs.15,00,000/- and for 4 persons i.e., Mr. S.P. Jayanathan, Director Mr. Kaliyakudi Viswanathan, Director, Mr. Pradeep Kanakath, EX-Director and Mr. Suresh Bharathan, Ex-Director to Rs.40,000/- each (total aggregating to Rs.16,60,000/-). 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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5. Accordingly, penalty was paid by the Company amounting to Rs.15,00,000/- and for 4 persons i.e., Mr. S.P. Jayanathan, Director Mr. Kaliyakudi Viswanathan, Director, Mr. Pradeep Kanakath, EX-Director and Mr. Suresh Bharathan, Ex-Director to Rs.40,000/- each (total aggregating to Rs.16,60,000/-). vide SRN's X56213663, X56209430, X56106677, X56209935 and X56210065 dated 17.10.2023 & 18.10.2023 respectively. Accordingly, this order is issued to the Appellants with a copy to Registrar of Companies, Telangana 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 13th day of December 2023.



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

Copy for information and necessary action to :

1. M/s. Kony India Private Limited,
Sez- Unit II, Level 7, Building No.H06, Hitech City2
Phoenix Info City, Gachibowli, Serilingampally,
Hyderabad, Telangana- 500081
2. Mr. S.P. Jayanathan, Director
D 406, Samarpann, 1, 20th East Street, Kamaraj
Nagar, Thiruvanmiyur, Chennai, Tamil Nadu- 600041.
3. Mr. Kaliyakudi Viswanathan, Director
Flat No.T-2, 3rd Floor, No.12/14, 2nd Seaward
Road, Valmiki Nagar, Thiruvanmiyur,
Chennai, Tamil Nadu- 600041
4. Mr. Pradeep Kanakath, Director
6/49, 7th Street, Anna Nagar,
Chennai, Tamil Nadu- 600040.
5. Mr. Suresh Bharathan, Director
Flat No. A5-9, Green Acres Kamaraj Nagar,
Perungudi, Chennai, Tamil Nadu- 600096


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6. Registrar of Companies, Ministry of Corporate Affairs,
Telangana, Hyderabad.

7. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.




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