

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec. 454(5)/Appeal/United/T56005549/2021/4379

In the matter of Companies Act, 2013: Section 454(5)

AND

21 JAN 2022

In the matter of **UNITED CONVEYOR CORPORATION (INDIA) PRIVATE LIMITED**

having Registered Office at 3rd Floor, Farena Corporate Park, Near Marvel Diva, Hadapsar Kharadi Bypass Road, Hadapsar, Pune, Maharashtra - 411 013.

....Appellant

ORDER

1. This appeal is filed under sub-Section (5) of Section 454 of the Companies Act, 2013 (hereinafter referred to as the "Act") read with Companies (Adjudication of Penalties) Rules, 2014 (hereinafter referred to as the "Rules") by UNITED CONVEYOR CORPORATION (INDIA) PRIVATE LIMITED (hereinafter referred to as the "Company" or "Appellant") having CIN U45207PN1998PTC149192 , incorporated under the Companies Act, 1956, having its registered office at having Registered Office at 3rd Floor, Farena Corporate Park, Near Marvel Diva, Hadapsar Kharadi Bypass Road, Hadapsar, Pune, Maharashtra - 411 013, India against the order passed by Registrar of Companies, Pune, adjudicating a penalty for violation of Section 203(1) of the Companies Act, 2013 read with Companies (Adjudication of Penalties) Rules, 2014 vide Order No. RoCP/order/203/21-22/United/883 to 887 dated 15.09.2021.
2. The order was passed by the ROC on 15.09.2021 and the appeal is filed with this appellate forum having jurisdiction in the matter being the Regional Director having jurisdiction in the State of Maharashtra and Goa. Thus, this appellate forum is having jurisdiction.

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3. The appeal in Form ADJ (SRN T56005549) is filed on 26.10.2021. As per provisions of Section 454(6), an appeal under sub-Section (5) of Section 454 is to be filed within a period of 60 days from the date of which the copy of the order made by the adjudicating officers is received by the aggrieved person. On examination of the Application/ Appeal it is seen that the said appeal is filed within sixty days (60) from date of passing adjudication order by the Registrar of Companies, Pune (i.e. 15.09.2021). Hence, the appeal was filed within the stipulated period of 60 days in terms of provisions of Section 454(5) of the Act.

4. The brief facts of the case are as under:

- a. The appeal is filed by the Appellants. The appellants have violated the provision of Section 203 (1) of the Companies Act, 2013
- b. The appellant company and its officer have made default for non-compliance of Section 203 (1) of the Companies Act, 2013
- c. Registrar of Companies, Pune has issued show cause notice dated 29.03.2021 to the company and its directors seeking information. Reply from applicants received on 20.04.2021 stating that the company has the existing paid-up capital is Rs.116 crores and comparatively less turn over i.e. Rs.18.1 crores in last 8 years. The owner has infused all the capital to absorb the losses incurred by the company during 2005 to 2012. The management is seriously considering substantial reduction in share capital but is get postponed in the light of some tax implications. The Company has full time Company Secretary until 2012. Thereafter it has two employees on its pay roll who have cleared CS Intermediate course and were probable candidates to be absorbed on affordable terms upon anyone getting membership. Since minimizing the cost is a task in front, in the recent past the management preferred to wait for this to happen. The company is diligent in making all the legal compliances even though there is no whole-time company secretary appointed by the company. Further, the company with two corporate shareholders does not offer quantifiable and justifiable secretarial work to have whole time company secretary in its employment. This is also a challenge for getting a candidate.

d. Further, as per records maintained by the Registrar of Companies, Pune Ms. MARIA FIORE (DIN: 07637766) is resigned on 26.03.2019. Therefore, penalty is imposed accordingly.

5. After considering all the facts and circumstances The Registrar of Companies, Pune has imposed penalty as per table below,-

No. of days of default	Penalty imposed on company/directors(s)	First default (In Rs)	Default Continues (In Rs)	Total/maximum penalty (In Rs)
879	United Conveyor Corporate (India) Private Limited	500000	500000	500000
	Jaykumar Jaysingrao Patil	50000	1000*878	500000
	Venkataraman Jayaraman	50000	1000*878	500000
144*	MARIA FIORE	50000	1000*143	193000

*Resigned on 26.03.2019

6. In the appeal, the appellant has stated as under:

- i. The reasonable efforts taken by the Company to recruit a suitable candidate through various placements platforms like Naukri.com subscribed since 2012 and private circulation with the aid of social media platforms, went in vain as the professionals interpreted the position as mere statutory compliance.
- ii. The Company could not recruit a suitable candidate due to various reasons: Many highly experienced/career-oriented Company Secretary candidates find this position less challenging. The Company could not meet the salary expectations of the Company Secretary Candidates. The Company could have not met the expectations of the whole-time job profile by CS candidates.
- iii. The Company is a Private Limited Company having only two Corporate Shareholders, there are minimal core secretarial activities as is evident. Since the appointment of the Key Managerial Personnel was also of the nature of Statutory Compliance, the candidates passed on this opportunity of employment. Due to this parity, the salary expectations of the candidates could not be matched.
- iv. The company after consistent efforts of recruiting a suitable candidate has finally appointed a Whole Time Company Secretary.

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7. This forum provided hearing to the Appellants through Video Conference on 30.12.2021 at 12.00 p.m. on which dated Mr. Ishan Padhye, CS as authorized representative appeared on behalf of the Appellant Company and Directors in default. I have carefully considered the impugned order, all the submissions made by the Appellant in the appeal and oral submissions made by the Learned Representative of the company during the hearing held on 30.12.2021. Accordingly, the appeal is allowed, it was directed to the representative of the Appellant Company that the revised penalty to be paid as under, -

Violation u/s Section	No. of days of default	Penalty imposed on company/directors(s)	Total/maximum penalty (In Rs)
203	879	United Conveyor Corporate (India) Private Limited	1,25,000/-
		Jaykumar Jaysingrao Patil	1,00,000/-
		Venkataraman Jayaraman	1,00,000/-
	144*	MARIA FIORE	49,000/-
Total			3,74,000/-


Total penalty comes to Rs. 3,74,000/- for violation of Section 203(1) of the Companies Act, 2013.

8. Pursuant to the said directions of this forum, the Appellant Company vide letter dated 11.01.2022 submitted the copies of challan/payment receipt for penalties paid to the MCA and state that as directed in virtual hearing which was held on 30.12.2021, the total penalty of Rs. 3,74,000/- has been paid for violation of Section 203(1) of the Companies Act, 2013 by the Company and officer in default through challan to MCA. The details of the said Challan are as under: -

Violation u/s Section	No. of days of default	Penalty imposed on company/directors(s)	Total/maximum penalty (In Rs)	SRN of Challan
203	879	United Conveyor Corporate (India) Private Limited	1,25,000/-	X04791273
		Jaykumar Jaysingrao Patil	1,00,000/-	X04822144
		Venkataraman Jayaraman	1,00,000/-	X04819207
	144*	MARIA FIORE	49,000/-	X04825121
Total			3,74,000/-	

9. In view of the above and penalty having been paid by the Appellant Company and officers in default, the Appeal is disposed of accordingly.
10. A copy of this order shall be published on the website of the Ministry of Corporate affairs as per Rules.

Signed and sealed on 20th day of January 2022.


(M.P.SHAH)
REGIONAL DIRECTOR
WESTERN REGION, MUMBAI.

1. United Conveyor Corporation (India) Private Limited
3rd Floor, Farena Corporate Park, Near Marvel Diva,
Hadapsar Kharadi Bypass Road, Hadapsar,
Pune, Maharashtra - 411 013.
2. The Registrar of Companies, Pune
3. E-Gov Cell, Ministry of Corporate Affairs,
New Delhi
- ✓ 4. Master Copy
5. Office Copy