

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

RD(WR)/Sec. 454(5)/Appeal/Sogefi/T57777070/2021 / 4534 to 4536

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

1 FEB 2022

AND

In the matter of SOGEFI ADM SUSPENSIONS PRIVATE LIMITED

having Registered Office at Plot No. D-108, MIDC Chakan, Phase II, Village

Bhamboli, Taluka Khed, Pune, Maharashtra - 410 501, India.

....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 Sogefi Adm Suspensions Private Limited (hereinafter referred to as the "Company" or "Appellant") having CIN U34300PN2010PTC136606, incorporated under the Companies Act, 1956, having its registered office at Plot No. D-108, MIDC Chakan, Phase II, Village Bhamboli, Taluka Khed, Pune, Maharashtra - 410 501, against the order passed by Registrar of Companies, Pune, adjudicating a penalty for violation of Section 203 of the Companies Act, 2013 read with Companies (Adjudication of Penalties) Rules, 2014 vide Order No. RoCP/ADJ/order/203/21-22/Sogefi/855 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.
3. The appeal in Form ADJ (SRN T57777070) is filed on 08.11.2021. 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) r/w 203(4) of the Companies Act, 2013. The company has not appointed the Company Secretary since 30.11.2019.
- b. 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 16.04.2021 stating that the previous company secretary has vacated the office w.e.f. 29.11.2019. Further the company has to appoint a whole time key managerial personnel within 6 months from the date of such vacancy and after the vacation the company initiated for finding suitable candidates. Due to the Corona pandemic and lock down situation nobody was ready to come during those difficult times. After opening of lockdown, the company started the initiatives but could not find the suitable candidate. Further, the company has found suitable candidate and Mrs. Sneha Rupal Sarada was appointed as Whole-time company secretary w.e.f. 16.04.2021 and requested to not to impose any penalty as the non-compliance wasn't intentional and beyond the reach due to Covid-19 and without any malafide intention.
- c. Further, as per records maintained by the Registrar of Companies, Pune Shri. Kapil Arvind Papade were appointed on 18.12.2020. 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) |
|------------------------|---|-----------------------|---------------------------|-------------------------------|
| 304 | Sogefi Adm Suspensions Private Limited | 500000 | 500000 | 500000 |
| | Aman Mehtani | 50000 | 1000*303 | 353000 |
| | Rajesh Kumar Gupta | 50000 | 1000*303 | 353000 |
| 102* | Kapil Arvind Papade | 50000 | 1000*101 | 151000 |

*appointed on 18.12.2020

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

- a. The Company had previously appointed a whole-time company secretary, who was employed for more than 5 years and had vacated the office effective 29.11.2019.

- b. Due to COVID-19 pandemic, strict lockdown was imposed in the entire country by the Government of India and the company was unable to appoint a whole-time company secretary.
- c. Upon the unlocking of lockdown, despite several work-related restrictions and limited staff, the company initiated the process to search for suitable candidate for the job of Company Secretary in whole time employment. However, fearing spread of infection of virus, no candidate was willing to get employed.
- d. Additionally, the company being a loss-making unit, having eroded its net worth and the Registered office being situated at the outskirts of the city, the post for CS in the company was not an attractive option for prospective company secretaries, to get employed, leading to further delay in employing of a Company Secretary. After conducting few interviews, the company could finally appoint CS Snehal Rupesh Sarda for the post of Company Secretary in April 2021.
- e. The Company being in losses since its formation, imposing such heavy penalty would put the Company under acute financial stress. The adjudicating officer has considered even the period of lockdown while computing the penalty on the company and its Directors/KMP. The appellants prays that appeal may kindly consider imposing minimum penalty to the company and its Directors prescribed under the relevant section of the Act.
7. This forum provided hearing to the Appellants through Video Conference on 30.12.2021 at 1.00 p.m. on which dated Mr. Suraj G Padhiya, FCS 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) | Revised penalty |
|-----------------------|------------------------|---|-------------------|
| 203 | 304 | Sogefi Adm Suspensions Private Limited | 1,00,000/- |
| | | Aman Mehtani | 70,600/- |
| | | Rajesh Kumar Gupta | 70,600/- |
| | 102 | Kapil Arvind Papade | 30,200/- |
| Total | | | 2,71,400/- |

Total penalty comes to Rs. 2,71,400/- for violation of Section 203(1) r/w 203(4) of the Companies Act, 2013.

8. Pursuant to the said directions of this forum, the Appellant Company has submitted revised appeal on 24.01.2022 and also vide mail dated 09.01.2022 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. 2,71,400/- has been paid for violation of Section 203(1) r/w 203(4) 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) | Revised penalty | SRN of Challan and date |
|-----------------------|------------------------|---|-----------------|--------------------------|
| 203 | 304 | Sogefi Adm Suspensions Private Limited | 1,00,000/- | X04736708 dt. 08.01.2022 |
| | | Aman Mehtani | 70,600/- | X04759775 dt 09.01.2022 |
| | | Rajesh Kumar Gupta | 70,600/- | X04760963 dt 09.01.2022 |
| | 102 | Kapil Arvind Papade | 30,200/- | X04761011 dt 09.01.2022 |
| Total | | | 2,71,400/- | |

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 1st day of February 2022.



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

1. Sogefi Adm Suspensions Private Limited
Plot No. D-108, MIDC Chakan, Phase II,
Village Bhamboli, Taluka Khed, Pune,
Maharashtra - 410 501.
2. The Registrar of Companies, Pune
3. E-Gov Cell, Ministry of Corporate Affairs, New Delhi
4. Master Copy
5. Office Copy

"Certified True Copy"
(Signature)
S. M. Saindane
Joint Director
O/o. Regional Director
Ministry of Corporate Affairs,
Mumbai-2.