

BEFORE THE REGIONAL DIRECTOR, (WR), MUMBAI

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शिघ्र डाक सेवा
SPEED POST

RD(WR)/Sec.454(5)/Tokyo Finance Limited/H63626063/2019 / 3394

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

AND

12 FEB 2021

In the matter of TOKYO FINANCE LIMITED

Having Registered Office at 363/1(1,2,3) Shree Ganesh Industrial Estate,

Kachigam Road, Daman , Daman and Diu - 396210 Appellant

Parties Present:

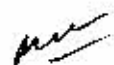
Shri Virendra Bhatt , Practicing Company Secretary attended the hearing through Video Conference on behalf of the Appellant Company and officer in default.

Date of Hearing: 22.12.2020

ORDER

Heard.

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 Tokyo Finance Limited (hereinafter referred to as the "Company" or "Appellant") having CIN L65923DD1994PLC009783, incorporated under the Companies Act, 1956, having its registered office at 363/1(1,2,3) Shree Ganesh Industrial Estate, Kachigam Road, Daman , Daman and Diu - 396210, against the order passed by Registrar of Companies, Goa, Daman & Diu adjudicating a penalty for violation of provision of Section 203 (1) of the Companies Act, 2013 vide Order No. ROCGDD/AO/Sec-203/2019/10 dated 15/04/2019.
2. The order was passed by the ROC on 15.04.2019 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.

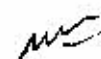
3. The appeal on Form ADJ (SRN H63626063) is filed on 11.06.2019. As per provisions of Section 454(6), an appeal under sub-Section (5) of Section 454 is to be filed within a period of 60 days from the date of which the copy of the order made by the adjudicating officers is received by the aggrieved person. In this case, the appellant company has not mentioned the date of receipt of order dated 15.04.2019 in the appeal, however, the appeal is filed on 11.06.2019. Therefore, the appeal was filed on 11.06.2019 is 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 Appellant Company and its officers in defaults. The appellant company has violated provision of Section 203 (1) of the Companies Act, 2013.
 - b. The ROC has issued show cause notice dated 17.01.2019 to the company and its directors calling them to show cause for violation of provision of Section 203 of the Companies Act, 2013. In response to the said Show cause notice, the Company submitted its reply dated 04.02.2019 and explained the circumstances for non-appointment of Company Secretary. The reply of the Company was not found satisfactory by the ROC. Thereafter, Notice of Inquiry was issued by the ROC on 08.02.2019 to the Company & Officer/ Directors. They were called upon to appear personally or through authorized representative on 25.02.2019 at 12.30 pm. The Company vide letter dated 19.02.2019 requested for adjournment for personal hearing as their representative was not in

position to attend the hearing on 25.02.2019 and hence the hearing fixed on 08.03.2019.

- c. Shri Virendra G. Bhatt, Practicing Company Secretary appeared for hearing with authority letter before the ROC on 08.03.2019. He submitted that Company has complied with the provision of the Act and appointed Ms. Priyanka Borana, as Company Secretary with effect from 27.02.2019 and further stated that company having complied with the provisions and appointed Company Secretary and being unintentional, first time default, Adjudication Officer may kindly consider to condone the penalties.
- d. The ROC has imposed penalty of Rs.5,00,000/- (Rupees Five Lakhs only) on Company and Rs.1,67,000/- (Rupees One Lakh Sixty Seven Thousand only) on officer of the Company for violation of provision of Section 203(1) of the Companies Act, 2013.

5. In the appeal, the appellant has taken the following grounds:

- a. The financial position of the petitioner Company was not sound.
- b. The Appellant Company had appointed a company secretary and she left on 11.08.2017 due to non-payment of high salary and underutilization of her qualification and talent.
- c. The Appellant Company had made efforts to appoint the new Company Secretary but the Company's registered office is situated at Daman and no outsiders intend to join and stay at Daman so that is also a big issue for company to find that candidate who also ready to stay at Daman.
- d. The Appellant Company has complied with the provision of Act and appointed Ms. Borana as Company Secretary with effect from



27.02.2019 and this being unintentional, first time default, Regional Director may kindly consider to condone penalties.

6. This forum provided hearing to the Appellants on 22.12.2020 at 11.30 a.m. on which date Shri Virendra Bhatt, Practicing Company Secretary attended the hearing through Video Conference on behalf of the Appellant Company and officer in default. At the time of hearing it has been pointed out to the representative of the Appellant Company that officer in default has not join the Appeal. Therefore, he was directed to submit an Affidavit for joining the Appeal by the Officer in default. Further, I have carefully considered the impugned order, all the submissions made by the Appellant in the appeal and oral submissions made by authorized representative of the Appellants during the hearing. Accordingly, the appeal is allowed and it was directed to the Appellant Company & officer in default that revised penalty to be paid as under:

Sr. No.	Defaults made under Section	Penalty to be paid by Company/Director (officer in default)	Penalty Rs.
1.	Section 203 of the Act, 2013	Company	1,25,000/-
		Shri Veji Lakndhir Shah	41,750/-
		Total :-	1,66,750/-

Total penalty comes to Rs.1,66,750/-for violation of Section 203(1) of the Act, 2013.

7. Pursuant to the said directions of this forum, the Appellant Company vide its letter dated 25.01.2021 has submitted an Affidavit from Shri Veji Lakhdhir Shah for joining the said Appeal filed vide form ADJ on 11.06.2019 vide SRN H63626063. Further, the authorized representative vide e-mail dated 09.02.2021 has submitted the copy of challan /payment receipt for penalties paid to the MCA as directed in virtual hearing. The total penalty

of Rs.1,66,750/- has been paid by the Company & officer in default through a single challan to MCA. The details of the said challan is as under:-

Sr. No	Defaulters	Amount (Rs.)	Challan No. / SRN No. & date
1	Company & Shri Velji L. Shah	1,66,750/-	SRN: U80130131 Dated 08.02.2021
	Total :-	1,66,750/-	

8. The authorized representative vide e-mail dated 09.02.2021 has forwarded a copy of letter dated 09.02.2021 from the Appellant Company stating therein that the payment made on 08.02.2021 vide SRN U80130131 in respect of the penalties imposed on the Tokyo Finance Limited and Shri Velji Lakhdhir Shah, the Managing Director was made by the Company through a single challan but the Company has received Rs.41,750/- from Shri Velji Lakhdhir Shah vide cheque No. 51075806 dated 05.02.2021 from his personal funds.
9. In view of the above and penalty having been paid by the Appellant Company and officers in default, the Appeal is disposed off accordingly.
9. A copy of this order shall be published on the website of the Ministry of Corporate Affairs as per Rules.

Signed and sealed on 12th day of February, 2021.



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

1/ Tokyo Finance Limited
363/1(1,2,3) Shree Ganesh Industrial Estate,
Kachigam Road, Daman, Daman and Diu - 396210

"Certified True Copy"

S. Bang

2. The Registrar of Companies, Goa
3. Master Copy
4. Office Copy.

संजय एस. बांग
Sanjay S. Bang
Regional Director
O/o. Regional Director (W.R.)
कारपोरेट कार्य मंत्रालय, मुंबई-२
Ministry of Corporate Affairs, Mumbai-2