

F.No:9/24/ADJ/SEC.203 of 2013/ROC(TG)/RD(SER)/2024/5233

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

AND

IN THE MATTER OF TETHYS PROPERTIES PRIVATE LIMITED

1. M/s. TETHYS PROPERTIES PRIVATE LIMITED
Plot No.7, Bindu Sadan, 401,
Sai Chandra Residency Opp Green Space Tulasi,
Puppalaguda, Manikonda, Rangareddi, Hyderabad,
Telangana – 500089.
2. Mr. Arun Kumar Sangaraju,
124, R R Residency, 403 Balaji Nagar,
Road No. 6, Nizampet Village,
Hyderabad – 500090, Telangana.
3. Mr. Bathala Suresh,
16-3-923, Second Line, Near Ratnam School,
Haranadhapuram, Dargamitta,
Nellore – 524003, Andhra Pradesh.
4. Mr. Vinod Kumar Godavarthi
H.No. 5-128, Vatticherukuru,
Guntur – 522212, Andhra Pradesh.
5. Mr. Jayanth Kothapalli,
7-6, Library Centre, Vatticherukuru
Guntur – 522212, Andhra Pradesh.
6. Mrs. Priya Bandhavi Jaladi,
D.No. 1-106-3, Plot No. 40,
Sector 8, M.V.P Colony,
Visakhapatnam – 530017, Andhra Pradesh.

.....Appellants

Date of hearing: 06.12.2024
Present: Mr. Vinay Babu Gade, PCS

ORDER

1. That the appellants have filed the appeal under section 454(5) of the Companies Act, 2013 in e-form ADJ vide SRN AB0507466 dated



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16.09.2024 against the adjudication order dated 09.08.2024 passed by the Registrar of Companies, Telangana at Hyderabad in File No. ROC/HYD/THETHYS/ADJ/S.203/2024-25/1089 under section 454 for violation of section 203 of the Companies Act, 2013 as the Company and its Directors had admitted that there was a non-compliance of Provisions of Section 203 (1) read with Rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014.

2. That the Registrar of Companies in his order of adjudication dated 09.08.2024 has interalia stated as under :

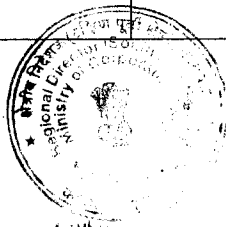
- (i) that the applicant company has filed Amalgamation Application under section 230-232 of the Companies Act, 2013 and during the examination of the records of the company for the preparation of report on the scheme of Amalgamation to the Regional Director (SER), the ROC office has observed that the company has not appointed the Whole Time Company Secretary as required under section 203 (1) of the Companies Act, 2013 from 10.12.2014 to 07.03.2021 and 13.10.2021 to 30.11.2023. Therefore, the Company and its officers have violated the provisions of Section 203 (1) of the Companies Act, 2013. Thereafter, the company had filed the instant adjudication application on 27.06.2024, along with its officers.
- (ii) that from the averments in the adjudication application and the Sale Certificate dated 02.07.2019, it has been observed that, the company has been purchased by the present management in relation to the Liquidation process of M/s. Lanco Infratech Limited being the holding company of M/s. Tethys Properties Private Limited. Hence the period of default u/s 203 of the Companies Act, 2013 of the Companies Act, 2013 to be



considered for adjudication on the present management is fixed from date of taking over the Company as mentioned above.

- (iii) That having considered the facts and circumstances of the case and after taking into account the factors above, it is concluded that Company and its officers in default are liable for penalty as prescribed under Section 203 (5) of the Act for violation of Section 203(1) of the Companies Act, 2013.
- (iv) That I am inclined to impose a penalty as prescribed under Section 203(5) of the Companies Act, 2013. The details of the penalty imposed on the Company and officers in default are shown in the table below:

| S.No | Name of the Company | Penalty as per Companies Act, 2013. | | | | |
|------|--|---|-------------------------------------|---|-----------------------|-----------------------------|
| | | Penalty for default (Rs.) | Period of Default | Calculation of Penalty | Maximum Penalty (Rs.) | Final Penalty Imposed (Rs.) |
| 1. | M/s. TETHYS PROPERTIES PRIVATE LIMITED | Rs.5,00,000/- | 13.10.2021 to 30.11.2023 (779 days) | | Rs. 5,00,000/- | Rs. 5,00,000/- |
| 2. | Mr. Arun Kumar Sangaraju (Past Director) | Rs.50,000/- +Rs. 1000/- Per day for continuing contravention (388 days) | 13.10.2021 to 04.11.2022 | Rs.50,000/- +Rs. 1000/- * 388 days = Rs. 4,38,000/- | Rs. 5,00,000/- | Rs. 4,38,000/- |
| 3. | Mr. Bathala Suresh (Past Director) | Rs.50,000/- +Rs. 1000/- Per day for continuing contravention (388 days) | 13.10.2021 to 04.11.2022 | Rs.50,000/- +Rs. 1000/- * 388 days = Rs. 4,38,000/- | Rs. 5,00,000/- | Rs. 4,38,000/- |
| 4. | Mr. Vinod Kumar | Rs.50,000/- +Rs. 1000/- | 31.10.2022 to 30.11.2023 | Rs.50,000/- +Rs. 1000/- * | Rs. 5,00,000/- | Rs. 4,46,000/- |



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| | | | | | | |
|----|--|---|--------------------------------|--|-------------------|-------------------|
| | Godavarthi(Past Director) | Per day for continuing contravention (396 days) | | 399 days = Rs. 4,46,000/- | | |
| 5. | Mr. Jayanth Kothapalli (Additional Director) | Rs.50,000/- +Rs. 1000/- Per day for continuing contravention (33 days) | 01.11.2023 to 30.11.2023 | Rs.50,000/- +Rs. 1000/- * 30 days = 80,000/- | Rs. 5,00,000/- | Rs. 80,000/- |
| 6. | Mrs. Priya Bandhavi Jaladi (Director) | Rs.50,000/- +Rs. 1000/- Per day for continuing contravention (750 days) | 13.10.2021 to 01.11.2023 | Rs.50,000/- +Rs. 1000/- * 969 days = Rs. 8,00,000/- | Rs. 5,00,000/- | Rs. 5,00,000/- |

3. Aggrieved by the adjudication order dated 09.08.2024, the applicants herein have filed the instant appeal. This Directorate vide letter dated 11.09.2024 and email dated 26.10.2024 requested ROC to submit report. That ROC, Hyderabad vide his email dated 12.11.2024 inter- alia has stated that he reiterates the Adjudication orders passed in the respective matters and has nothing to add and prayed that the Appellant Authority may decide the appeal based on the facts and adjudication orders passed by the ROC.
4. Accordingly, an opportunity of being heard was given by the Regional Director to the Appellants on 06.12.2024. The authorized representative Mr. Vinay Babu Gade, PCS appeared on behalf of the appellants and also submitted affidavit dated 16.12.2024 from past directors namely., Mr. Arunkumar Sangaraju, Mr. Bathla Suresh and Mrs. Priya Bandhavi Jaladi stating that they have adopted the instant appeal filed by M/s. Thethys Properties Pvt Ltd and also provided power of Attorney in favour of Mr. Vinay Babu Gade, PCS. The Authorized Representative reiterated the submissions made in the appeal and also stated as follows: (i) that imposing maximum penalty by the Registrar of Companies on the





company, its other director is burdensome on the Company and Directors.

(ii) that the Company was actually acquired in a CIRP Proceedings for Rs. 50,000/- vide sale Certificate dated 02.07.2019 issued by the Liquidator for Lanco Infratech Ltd and that the provisions of 203 was attracted with effect from 02.07.2017.

(iii) that as per the orders passed by the Hon'ble NCLT Mumbai in Shiv Shakti Inter Globe Exports Pvt Ltd v/s KTC Foods Private Ltd held that while approving the corporate debtor sale as a going concern, without dissolution it is essential to see that the Corporate Debtor is not burdened by any past or unpaid outstanding Liabilities prior to sale of the company as a going concern and the scope and object of the IBC is extinguish all claims specifically the ones which were not even made during CIRP or the Liquidation stage to aid the purchaser to start on a clean state.

(iv) the Company could not appoint of Whole Time Company Secretary due to the following reasons:

(a) Covid-19 pandemic effected whole country and none shown interest despite company's effort during that period to appoint a whole-time company secretary;

(b) Company has not yet started its business and not a single rupee earned as on date

(c) Further, it is observed that company had continuously incurred losses in the following financial years:

- i. Losses in 2019-20 - Rs. 31,000/-
- ii. Losses in 2020-21 - Rs. 20,000/-
- iii. Losses in 2021-22 - Rs.3,82,000/-
- iv. Losses in 2022-23 - Rs.24,000/-

(d) Company is private limited and there is no injury to the public interest

(v) that the Company had interviewed many candidates but however, only in December 2023 it could find the suitable Company Secretary Mr. Naveen



Kumar, an associate member of ICSI who was appointed by the Board at its meeting held on 01.12.2023.

(vi) that the Default is unintentional and inadvertent and the same has been now made good. The ROC has imposed the penalty which is exorbitant and no lenient is shown by ROC while imposing the penalty.

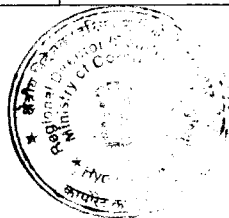
(vii) that the Registrar of Companies passed the adjudication order in a manner without taking into consideration any of the above-mentioned material facts as evident from his order dated 09.08.2024.

(viii) that, in view of the para stated supra, we place our reliance on various orders passed by the Regional Director, Southeast Region, Hyderabad, as an Appellant Authority in various matters under Section 203, wherein penalty was reduced after taking into consideration the fact and circumstances of the respective cases, as precedent.

5. In view of the above, taking into consideration the fact of the appeal and the submissions made by the authorized representative, I deemed fit in the interest of justice, if the penalty imposed by the Registrar of Companies is reduced to Rs. 1,50,000/- for Company and by 10% of the penalty on all other individual directors/Applicants/Appellants and directed the appellants to comply with this order and were also reminded about the provisions of Section 454(8) of the Act, in case of failure to comply.

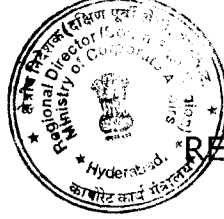
6. The details of penalty imposed and collected/received as follows:

| Sl. No. | Name of the Company/ Name of the Director | Penalty Imposed By RD | SRN | DATE |
|---------|---|-----------------------|-----------|------------|
| 1 | M/s. Tethys Properties Private Limited | 1,50,000 | UU0627224 | 10/12/2024 |
| 2 | Mr. Arun Kumar Sangaraju | 43,800 | X88307590 | 10/12/2024 |
| 3 | Mr. Bathala Suresh | 43,800 | X88309174 | 10/12/2024 |
| 4 | Mr. Vinod Kumar Godavarthi | 44,600 | X88309992 | 10/12/2024 |
| 5 | Mr. Jayanth Kothapalli | 8,000 | UU0627245 | 10/12/2024 |
| 6 | Mrs. Priya Bandhavi Jaladi | 50,000 | X88311204 | 10/12/2024 |
| | Total: | 3,40,200 | | |



7. 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 theday of December 2024.



(Signature)
(M.JAYAKUMAR/एम.जयकुमार)
क्षेत्रीय निदेशक (प्रभारी)एस.ई.आर/
REGIONAL DIRECTOR(I/C)(S.E.R.)
हैदराबाद /HYDERABAD

Copy for information and necessary action to :

1. Registrar of Companies, Ministry of Corporate Affairs, Hyderabad.
2. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.

(Signature)
(M.JAYAKUMAR/एम.जयकुमार)
क्षेत्रीय निदेशक (प्रभारी)एस.ई.आर/
REGIONAL DIRECTOR(I/C)(S.E.R.)
हैदराबाद /HYDERABAD