

Application No. RD/ER/454/48/2024/Appeal /6803-05

BEFORE THE REGIONAL DIRECTOR, EASTERN REGION
MINISTRY OF CORPORATE AFFAIRS, KOLKATA.

IN THE MATTER OF

THE COMPANIES ACT, 2013

-AND-

IN THE MATTER OF

CA SANJAY KUMAR KHETAN (M. NO: 058510)

M/S S N KHETAN & ASSOCIATES

59-B, CHOWRINGHEE ROAD, 4TH FLOOR

KOLKATA- 700020, WEST BENGAL, INDIA

For the Company: **SUPREME GRIDTECH PRIVATE LIMITED**

(CIN: U29248WB2007PTC117160)

-AND-

IN THE MATTER OF

Application under section 454 of The Companies Act, 2013 for preferring an appeal against the penalty order dated 31/10/2023 of Registrar of Companies, West Bengal passed for violating the provisions of section 143 of the Companies Act, 2013.

-AND-

IN THE MATTER OF

CA SANJAY KUMAR KHETAN (M. NO: 058510)

M/S S N KHETAN & ASSOCIATES

59-B, CHOWRINGHEE ROAD, 4TH FLOOR

KOLKATA- 700020, WEST BENGAL, INDIA

..... APPELLANTS

In the matter of : Sanjay Kumar Khetan, CA

भेजित किया गया/Dispatched by.....
 हस्ताक्षर/Signature.....
 दिनांक/Date..... **NOV 2024**

3. Considering the above facts and circumstances of the case, the Adjudicating Authority had imposed Penalty for violation of section 143 of the Act as per table below:

Name of the Applicant Company/ Director	Contravention of Section and AS	No. of years	Default (in Rs.)	Total maximum Penalty (in Rs.)
CA S K KHETAN (M. NO: 058510)	(i) Sec 143 r/w sec 129	2017-18 2018-19 2019-20	10,000*3 years	30,000/-
	(ii) Sec 143 r/w sec 129	2017-18	10,000*1 years	10,000/-
	(iii) Sec 143 r/w sec 129 and AS-18	2017-18 2018-19 2019-20	10,000*3 years	30,000/-

4. Having considered the facts and circumstances of the case and after taking into account the factors above, ROC, West Bengal imposed a penalty of Rs. 70,000/- (Rupee Seventy thousand Only) on the concerned Auditor in default for failure to make compliance of the Act u/s. 143 of the Act.
5. The appeal was heard on 18/09/2024 Authorised Representative was asked to make submission regarding any infirmity in the order of Registrar of Companies. The Authorised Representative had submitted the Certified true copy of the Financial Statements and Profit & Loss Account for 2017-18, 2018-19 & 2019-20 for claiming the Company as a "Small Company".

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As per the new amendment, definition of a small company provided under section 2(85) of the Companies Act, 2013 states that *The Act defines a small company as a company that is not a public company and has: paid up share capital equal to or below Rs 4 crore or such higher amount specified not exceeding more ten Rs 10 crores. A turnover equal to or bellow Rs 40 crore or such a higher amount specified not exceeding more than Rs 100 crore.* “ Based on the submissions made by the Authorised Representative and Balance Sheet and Annual Return filed in the MCA Portal for the F.Y 2017-18, 2018-19 & 2019-20, the Appellate Authority is of view that the Company is falls under the definition of a Small Company u/s 2(85) of the Companies Act, 2013 and as per section 446B of Companies Act 2013 which states that *“Notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be”* . Thus the Auditor of the Company is liable for penalty u/s 446B of the Companies Act, 2013

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for violation of section 143 of the Companies Act, 2013 Hence, the order of ROC is modified as cogent ground was made out by Authorised Representative. The undersigned by virtue of the power vested in Regional Director under section 454(7) of the Companies Act, 2013 read with the Companies (Adjudication of Penalties) rules, 2014 modifies the order of the Registrar of Companies, West Bengal dated 31/10/2023 as under:

Name of the Applicant Company/ Director	Contravention of Section and AS	No. of years	Default (in Rs.)	Total maximum Penalty (in Rs.)	Penalty imposed by the Appellate Authority u/s 446B of the Companies Act, 2013
CA S K KHETAN (M. NO: 058510)	(i) Sec 143 r/w sec 129	2017-18 2018-19 2019-20	10,000*3 years	30,000/-	15,000/-
	(ii) Sec143 r/w sec 129	2017-18	10,000*1 years	10,000/-	5000/-
	(iii) Sec 143 r/w sec 129 and AS-18	2017-18 2018-19 2019-20	10,000*3 years	30,000/-	15,000/-

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6. Having considered the facts and circumstances of the case and after taking into account the factors above, the appellate authority imposed a penalty of Rs. 35000/- (Rupee Thirty five thousands Only) on the concerned Auditor for failure to make compliance of the Act u/s. 143 of the Act.
7. The Auditor of the company shall pay the amount of penalty from out of his own pocket. The amount of penalty shall be paid within a period of 90 days from the date of receipt of the copy of the order.
8. Further, if the Auditor fails to deposit the penalty amount within the prescribed time limit action under section 454(8)(i) and (ii) of the Companies Act, 2013 shall be initiated against the Auditor.
9. Hence the instant Appeal stands disposed of accordingly.



(P.Sridhar)

REGIONAL DIRECTOR (ER)

Signed this the 11th day of November, 2024.

Copy to:-

✓ **CA SANJAY KUMAR KHETAN (M. NO: 058510)**
M/S S N KHETAN & ASSOCIATES
59-B, CHOWRINGHEE ROAD, 4TH FLOOR
KOLKATA- 700020, WEST BENGAL, INDIA



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2. The Registrar of Companies,
West Bengal,..... for information in respect of his letter no.
ROC/ADJ/162/117160/2023/4197 dated 23/08/2024
3. The Officer in Charge, E-Gov. Cell, Ministry of Corporate Affairs, 5th Floor, A
wing Shastri Bhavan, New Delhi-110001,-with a request to upload this Order on
the website of the Ministry.

o/c

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