

Application No. RD/ER/454/33/23/Appeal / 8791-96

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

IN THE MATTER OF

THE COMPANIES ACT, 2013

-AND-

IN THE MATTER OF

M/S. Ascu Arch Timber Protection Limited
P 46a, Radhabazar Lane, 4th Floor, Kolkata,
West Bengal- 700001, India

-AND-

IN THE MATTER OF

Application under section 454 of The Companies Act,
2013 for preferring an appeal against the penalty order
dated 03/08/2023 of Registrar of Companies, West
Bengal passed for violating the provisions of section
203 of the Companies Act, 2013.

-AND-

IN THE MATTER OF

1. M/S. Ascu Arch Timber Protection
Limited, 1, Chitpore Ghat Lane, Kolkata
700002, West Bengal, India
2. Rajiv Agarwal (Director)
Flat 4a, 75 Bondel Road, Ballygunge, Kolkata -
700019, West Bengal, India

M/s Ascu Arch Timber Protection Limited

श्रीत रसातल / Dispatched by...
महामन्त्र / Secretary
दिनांक / Date 01 MAR 2024

3. Pradeep Kumar Lohia (Director)
Ujaas The Condoville, Block - 1, Flat - 402,
69 S.K Deb Road, Lake Town, North 24
Parganas, Kolkata -700048, West Bengal, India
4. Sanjay Goenka (Director)
Ud 080908 1050/1 Survey Park, Santoshpur,
S.O., Kolkata 700075, West Bengal, India

..... APPELLANTS

Date of Hearing : 01/02/2024

Present : Mr. Amarendra Kumar Rai, Company
Secretary & Authorised Representative

ORDER

1. The present appeal under section 454 of the Companies Act, 2013 read with the provisions of the Companies (Adjudication of Penalties) Rules, 2014 was filed vide Form ADJ bearing SRN no. F65665325 dated 04/10/2023 by the aforesaid appellants against the penalty order under section 203 of the Adjudicating Authority i.e. Registrar of Companies, West Bengal dated 03/08/2023 communicated to the appellants vide letter no. ROC/LEGAL/ADJ/2023/026250/penalty order/4029 dated: 03/08/2023.

M/s Ascua Arch Timber Protection Limited

2. The office of the Registrar of Companies, West Bengal had issued adjudication notice for violation of section 203 of the Act vide notice no. ROC/LEGAL/ADJ/2022/026250/9864-9867 dated 23.06.2022 to the company and its officers. In this regard, no adequate reply to the adjudication notice as mentioned above in para 3 has been received from the noticee(s) i.e. the company and its concerned officers in default as to why penalty shall not be imposed.

3. Considering the above facts and circumstances of the case, the Adjudicating Authority has imposed the penalty as under:-

Name of the Applicant Company/ Director	No. of days of Default	First Default (in Rs.)	Continuing Default (in Rs.)	Total maximum Penalty(in Rs.)
ASCU ARCH TIMBER PROTECTION LIMITED (Period of default from 02.11.2018 to 14.03.2020 01.09.2022 to 29.09.2022)	795	5,00,000/-		5,00,000/-
RAJIV AGARWAL [DIN: 00056650] [Appointed on 29.07.2003] (Period of default from 02.11.2018 to 14.03.2020 01.09.2022 to 29.09.2022)	795	5,00,000	795 * 1,000= 7,95,000/-	5,00,000/-
PRADEEP KUMAR LOHIA [DIN: 00056706] [Appointed on 31.01.2007] (Period of default from	795	5,00,000	795 * 1,000= 7,95,000/-	5,00,000/-

M/s AscU Arch Timber Protection Limited

02.11.2018 to 14.03.2020 01.09.2022 to 29.09.2022)				
SANJAY GOENKA [DIN: 03079842] [Appointed on 30.03.2019] (Period of default from 02.11.2018 to 14.03.2020 01.09.2022 to 29.09.2022)	795	5,00,000	795 * 1,000= 7,95,000/-	5,00,000/-

4. Having considered the facts and circumstances of the case and after taking into account the factors above, Adjudicating Officer imposed a maximum penalty of of Total Rs. 20,00,000/- (Rupees Twenty Lakhs only) i.e., Rs. 5,00,000/- (Rupees Five Lakh only) on the Company and Rs. 5,00,000/- (Rupees Five Lakh only) on each of its 3 (Three) officers-in-default for failure to make compliance of the Act u/s. 203 of the Act.
5. The Authorized Representative of the appellants during the hearing held on 01/02/2024 submitted as under: -

(a) The Authorized Representative (AR) of the appellant referred some instances of 'order of Appeal' passed by the different Regional Directors (Appellate Authority) under Ministry of Corporate Affairs wherein the penalty amounts were reduced from the penalty order imposed by the Adjudicating Officer and the AR requested before the
M/s Ascua Arch Timber Protection Limited

Appellate Authority to reduce the penalty amount in present instance in light of the referred orders.

(b) The Authorized Representative (AR) had submitted a reference letter issued by The Calcutta Stock Exchange Limited to the Appellant Company M/s Ascu Arch Timber Protection Limited stating the facts that the said company is suspended from the records of the Exchange w.e.f 05th April, 2023.

6. With regard to the order of Adjudicating Authority imposing penalty on the Company and other three remaining directors namely M/s. Ascu Arch Timber Protection Limited, Mr. Rajiv Agarwal, Mr. Pradeep Kumar Lohia and Mr. Sanjay Goenka, no cogent reason was pointed out for interference. Hence, the order of Adjudicating Authority to that extent is confirmed.
7. 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 confirm the order of the Registrar of Companies, West Bengal dated 03/08/2023 as stated above. The Company and 3 directors/officers of the company against whom order is confirmed shall pay the amount of penalty within a period of 90 days from the date of receipt of the copy of the order. The Directors of the Company shall pay the Penalty amount out of their own pocket. Further, if the company and its 3 directors namely Mr.

M/s Ascu Arch Timber Protection Limited

Rajiv Agarwal, Mr. Pradeep Kumar Lohia And Mr. Sanjay Goenka fail 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 Company and the said 3 Directors.

8. Accordingly, the instant Appeal stands disposed of accordingly.


(P. Sridhar)
REGIONAL DIRECTOR (ER)

Signed this the 29th day of February, 2024.

Copy to:-

1. ✓ M/S. ASCU ARCH TIMBER PROTECTION LIMITED
1 CHITPORE GHAT LANE, KOLKATA 700002, WEST BENGAL, INDIA
2. ✓ RAJIV AGARWAL (Director)
✓ FLAT 4A, 75 BONDEL ROAD, BALLYGUNGE, KOLKATA 700019, WEST BENGAL, INDIA
3. ✓ PRADEEP KUMAR LOHIA (Director)
✓ UJAAS THE CONDOVILLE, BLOCK - 1, FLAT - 402, 69 S.K DEB ROAD, LAKE TOWN, NORTH 24 PARGANAS, KOLKATA 700048, WEST BENGAL, INDIA
4. ✓ SANJAY GOENKA (Director)
✓ UD 080908 1050/1 SURVEY PARK, SANTOSH PUR, SANTOSH PUR S.O., KOLKATA 700075, WEST BENGAL, INDIA
5. ✓ The Registrar of Companies,
West Bengal,..... for information in respect of his letter no. ROC/ADJ/035668/194/2022/10101 dated 04/01/2024
6. ✓ 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.

M/s AscU Arch Timber Protection Limited


29/2/24