

Application No. RD/ER/454/32/23/Appeal/8797-8802

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. Kusum Industrial Gases Ltd  
P 494a, 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. Kusum Industrial Gases Ltd  
P 494A, Radhabazar Lane, 4<sup>th</sup> Floor, Kolkata  
700001, West Bengal, India
2. Rajiv Agarwal (Director)  
Flat 4a, 75 Bondel Road, Ballygunge,  
Kolkata-700019, West Bengal, India

**M/s KUSUM INDUSTRIAL GASES LTD**

अभिप्रेत सिद्धांत प्राप्त/Dispatched by: *S. Singh*  
अभिप्रेत/Signature: *S. Singh*  
दिनांक/Date: **01 MAR 2024**

3. Dinesh Parakh (Director)  
S/O. Gulab Chand Parakh, N - 93, Second  
Floor, Gali No. 2, Greater Kailash Part-1,  
South Delhi-110048, Delhi, India
  
4. Avantika Gupta (Director)  
D/O. Padam Prakash Gupta, 2B Hasting Park  
Road, Alipore, Kolkata 700027, 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. F65665275 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/2023/035668/penalty order/4060 dated: 03/08/2023.

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2. The office of the Registrar of Companies, West Bengal had issued adjudication notice for violation of section 203 of the Act vides notice no. ROC/LEGAL/ADJ/2022/035668/14412-14415 dated 10.10.2022 to the company and its officers. In this regard, no adequate reply to the adjudication notice as mentioned above 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.)
KUSUM INDUSTRIAL GASES LTD (Period of default from 02.11.2018 to 14.03.2020 01.09.2022 to 29.09.2022)	788	5,00,000/-		5,00,000/-
RAJIV AGARWAL [DIN: 00056650] [Appointed on 09.11.2009] (Period of default from 02.11.2018 to 14.03.2020 01.09.2022 to 29.09.2022)	788	5,00,000	788 * 1,000= 7,88,000/-	5,00,000/-
DINESH PARAKH [DIN: 00057091] [Appointed on 30.09.2002] (Period of default from 02.11.2018 to 14.03.2020 01.09.2022 to 29.09.2022)	788	5,00,000	788 * 1,000= 7,88,000/-	5,00,000/-

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AVANTIKA GUPTA [DIN: 03149138] [Appointed on 06.08.2012]  (Period of default from 02.11.2018 to 14.03.2020 01.09.2022 to 29.09.2022)	788	5,00,000	788 * 1,000= 7,88,000/-	5,00,000/-
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4. Having considered the facts and circumstances of the case and after taking into account the factors above, the Adjudicating Officer imposed a maximum penalty 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 Appellate Authority to reduce the penalty amount in present instance in light of the referred orders.

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

6. With regard to the order of Adjudicating Authority imposing penalty on the Company and other three remaining directors namely M/s Kusum Industrial Gases Ltd, Mr. Rajiv Agarwal, Mr. Dinesh Parakh and Ms Avantika Gupta no cogent reason was pointed out for interference. Hence, the order of Adjudicating Officer 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 the 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. Rajiv Agarwal, Mr. Dinesh Parakh

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and Ms Avantika Gupta 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 29<sup>th</sup> day of February, 2024.**

Copy to:-

- ✓ 1. M/S. KUSUM INDUSTRIAL GASES LTD  
P 494A RADHABAZAR LANE, 4<sup>TH</sup> FLOOR,  
KOLKATA 700001, WB, INDIA
- ✓ 2. RAJIV AGARWAL (DIRECTOR)  
FLAT 4A, 75 BONDEL ROAD, BALLYGUNGE, KOLKATA  
700019, WEST BENGAL, INDIA
- ✓ 3. DINESH PARAKH (DIRECTOR)  
S/O. GULAB CHAND PARAKH, N - 93, SECOND FLOOR,  
GALI NO. 2, GREATER KAILASH PAR-1, SOUTH DELHI  
110048, DELHI, INDIA
- ✓ 4. AVANTIKA GUPTA (DIRECTOR)  
D/O. PADAM PRAKASH GUPTA, 2B HASTING PARK ROAD,  
ALIPORE, KOLKATA 700027, 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, 5<sup>th</sup> Floor, A  
wing Shastri Bhavan, New Delhi-110001,-with a request to upload this Order on  
the website of the Ministry.

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OC  
29/2/24