



BEFORE THE REGIONAL DIRECTOR, WESTERN REGION

MINISTRY OF CORPORATE AFFAIRS, MUMBAI

प्रादेशिक निदेशक, पश्चिम क्षेत्र, कारपोरेट कार्य मंत्रालय, मुंबई के समक्ष

सं. - प्रादे. निदे. (प.क्षे.)/454(5)/ Khed Developers /203(1)/ F91647990 /2023-24/

/ 4725

11 JUN 2024

APPEAL UNDER 454(5) OF COMPANIES ACT, 2013 AGAINST ORDER PASSED FOR OFFENCES COMMITTED UNDER SECTION 203 OF THE COMPANIES ACT, 2013 READ WITH RULE 8A OF COMPANIES (APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL) RULES, 2014.

In the matter of KHED DEVELOPERS LIMITED & ORS

- | | |
|--------------------------------|------------|
| 1. Khed Developers Limited. | - Company |
| 2. Praful Pramod Chepe | - CEO |
| 3. Rajeev Gopinath Shende | - Director |
| 4. Chandrakant Sonaba Bhalekar | - Director |
| 5. Bhalchandra Shankar Mitkari | - Director |
| 6. Sadhana Pradeep Naik | - Director |

... Appellants

Through: Vishal N. Salunke, Practicing Company Secretary.

HON'BLE REGIONAL DIRECTOR (WESTERN REGION)

ORDER

Appeal under sub-Section (5) of Section 454 of the Companies Act, 2013 (Act) r/w the Companies (Adjudication of Penalties) Rules, 2014 (Rules) have been filed by Khed Developers Limited (Company) having CIN U70102PN2008PLC131478 and, its Directors and Key Managerial Personnel, against Order No. RoCP/ADJ/203/23-24/KHED/B/6/2291 dated 19/12/2023 (ROC Order) of Registrar of Companies, Pune for violating provisions of sub-Section (1) and (4), (5) of Section 203 of the Act.

2. The appeal lies within the jurisdiction of the Regional Director, Western Region, Ministry of Corporate Affairs, Government of India.

3. The Registrar of Companies, Pune (RoC Pune) vide Adjudication Order dated 19/12/2023 held the Company, its Directors and Key Managerial Personnel, who have defaulted, liable for penalty under Section 203(5) of the Act from 03/02/2020 to 16/08/2020 for non-appointment of Whole-Time Key Managerial Personnel as under:

[Signature]

Penalty imposed on Company / Director (s)	No. of days of default	First default (In Rs.)	Default continues (in Rs.)	Total / maximum penalty (In Rs.)
Khed Developers Limited.	195	5,00,000	5,00,000	5,00,000
Praful Pramod Chepe	195	50,000	1000*195 = 1,95,000	2,45,000
Rajeev Gopinath Shende	195	50,000	1000*195 = 1,95,000	2,45,000
Sadhana Pradeep Naik	195	50,000	1000*195 = 1,95,000	2,45,000
Chandrakant Sonaba Bhalekar	195	50,000	1000*195 = 1,95,000	2,45,000
Bhalchandra Shankar Mitkari	195	50,000	1000*195 = 1,95,000	2,45,000
TOTAL				17,25,000

Period of Default from 03/02/2020 to 16/08/2020.

4. Appellants have filed Form-ADJ vide SRN F91647990 dt. 03/02/2024. As per provisions of sub-Section (6) of Section 454, every appeal under sub-section (5) shall be filed within sixty (60) days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person. On examination of the application/appeal, it is seen that the said application/appeal has been filed within 60 days from the date of passing of the adjudication order.

5. Grounds of Appeal & Relief sought:

- COVID Pandemic created restrictions on movements of the company personnel which created the delay.
- 900 farmers are involved, and company is not have any revenue.
- The default is not continuing as on the date of this Appeal and the Appellants have adhered to the provisions of Section 203 of the Act.
- The company was not able to find the appropriate candidate due to reasons beyond the control of the company.
- The shareholders being the farmer, mobilizing any financial assistance is not possible to meet this kind of penalty.
- Some of the Directors and Key Managerial Personnel are senior citizens / retired from the services having no financial resources to meet any kind of penalty.
- That the order passed by Adjudicating Officer may set aside.
- Waive of the penalty imposed on the company and its directors.

6. The matter was posted for hearing as per Section 454(5) r/w Section 454(7) of the Act on 05/06/2024. Vishal N. Salunke, Practicing Company Secretary appeared on behalf of Appellants as their authorized representative. The authorized representative reiterated the submission made by the applicants in their application and have admitted the contravention of Section 203 of the Companies Act, 2013. The Authorized Representative further stated that he did not find any defect in ROC Adjudication Order dt. 19/12/2023.

Heer

7. Facts of the Case:

- a) In terms of the provisions of Section 203(4) of the Act, if the office of any Whole-Time Key Managerial Personnel is vacated, the resulting vacancy shall be filled-up by the Board within a period of six months from the date of such vacancy.
- b) In the instant case the company has not appointed the Company Secretary since 03/02/2020 to 16/08/2020 despite the last appointed Company Secretary vacating the office on 03/08/2019. The company and its officers/directors have therefore violated provisions of Section 203 of the Act.

8. That the punishment for contravention of section 203(1) is prescribed under section 203(5) of the Companies Act, 2013 which states that "*If any company makes any default in complying with the provisions of this section, such company shall be liable to a penalty of five lakh rupees and every director and key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees and where the default is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such default continues but not exceeding five lakh rupees*". As such, the order of ROC Pune dt.19/12/2023 is in accordance with the provision qua the appellants.

9. RoC, Pune had also joined the proceedings virtually. He confirmed that he has imposed penalty as per Section 203(5) of the Act and the company and directors have not taken any such defence in reply to Adjudication notice and filed appeal before Regional Director (WR).

10. Taking into consideration the Adjudication Order of the Registrar of Companies, Pune, submissions made by the Appellants in their application and, oral submissions of the authorized representative and RoC during the hearing, it is observed that:

- a) There is no inherent defect in the Adjudication Order dt. 19/12/2023.
- b) ROC, Pune has imposed penalty as per Section 203(5) of Companies Act, 2013.

11. In view of above, RoC's Adjudication Order dt. 19/12/2023 is confirmed with directions to the appellants to pay the penalty imposed by the RoC within 90 days, failing which, Registrar of Companies, Pune, is directed to file prosecution under Section 454(8) of the Companies Act, 2013 against the company and every director and Key Managerial Personnel in default.

A copy of this order shall be published on the website of the Ministry of Corporate Affairs as per Rules.

Signed and sealed on 11th day of June 2024.



(SANTOSH KUMAR)
REGIONAL DIRECTOR
WESTERN REGION, PUNE



To,

1. Khed Developers Limited,
FL No. C-303 Maharana Heights, Chavhanmala, Holewadi,
Pune, Maharashtra, 410505, India.
2. Praful Pramod Chepe,
49/1, B-503, Nidagh, Ruturang Society,
Aranyeshwar Road, Parvati,
Pune, 411009, Maharashtra, India.
3. Rajeev Gopinath Shende,
Ramkali, 1161/3, Shivaji Nagar, Gharpure Colony,
Pune 411005, Maharashtra, India.
4. Chandrakant Sonaba Bhalekar,
S/O Sonaba Bhalekar, Gavthan, Taluka - Khed,
Davadi, Dawadi, Pune 410505, Maharashtra, India.
5. Bhalchandra Shankar Mitkari,
B-1/16, Todkar Garden, Bibwewadi Knodhwa Road,
Opp. Kalyan Bhel, Pune 411037, Maharashtra, India.
6. Sadhana Pradeep Naik,
Flat No. 1 B-2, Elite Gardens Near Wireless Colony
D.P., Road Au Pune, 411007, Maharashtra, India.
7. Registrar of Companies, Pune.
8. E-Gov Cell, Ministry of Corporate Affairs, New Delhi.
9. Master Copy.
10. Office Copy.


(TUSHAR WAGH, ICLS)
DEPUTY DIRECTOR