



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)/Pioneer Adhesives/90/AB1581377/2024-25/

511

30 JAN 2025

APPEAL UNDER SECTION 454(5) OF COMPANIES ACT, 2013 AGAINST ORDER PASSED FOR OFFENCES COMMITTED UNDER SECTION 90 OF THE COMPANIES ACT, 2013.

In the matter of PIONEER ADHESIVES PRIVATE LIMITED & ORS.

- | | |
|--|-------------------------|
| 1. Pioneer Adhesives Private Limited | - Company |
| 2. Rajendra Yeshwant Kulkarni | - Director. |
| 3. Joydeep Datta | - Ex-Managing Director. |
| 4. John II Walter Spakowski | - Director. |
| 5. Maria Martina Lucia Marcalain Spakowski | - Director. |
| 6. Krutika Ramesh Shinde | - Company Secretary |

...Appellants

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 'Pioneer Adhesives Private Limited' (Company) having CIN U24304MH2018PTC318293 and, its Officers/Directors, against Order No. ROCM/STA/Sec.90/Pioneer/06/03/2024/1164 to 1169 dated 23/08/2024 (ROC Order) of Registrar of Companies, Mumbai for violating provisions of Section 90 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, Mumbai (RoC Mumbai) vide Adjudication Order dated 23/08/2024 held the Company and its Officers/Directors, who have defaulted liable for penalty under Section 90(11) of the Act from 01/04/2020 to 12/03/2024 i.e. 1441 days for not filing return of Significant Beneficial Owners of the company and changes therein with the Registrar in Form No. BEN-2 within 30 days from the date of receipt of declaration from Significant Beneficial Owner, as prescribed in Rule 4 of Companies (Significant Beneficial Owners) Rules, 2018 as under:

Sr. No.	Name of the Company / Director	Period of default	Amount of Penalty
1.	Pioneer Adhesives Private Limited	01/04/2020 to 12/03/2024 (1441 days) (1,00,000 + 500 X 1441 = 7,20,500/-)	1,00,000 + 5,00,000 = 6,00,000/-
2.	Rajendra Yeshwant Kulkarni	26/08/2021 to 12/03/2024 (929 days) (25,000 + 200 X 929 = 1,85,800/-)	25,000 + 1,00,000 = Rs.1,25,000/-
3.	Joydeep Datta	01/04/2020 to 10/08/2021 (496 days) (25,000 + 200 X 496 = 99,200/-)	25,000 + 99,200 = Rs.1,24,200/-
4.	John II Walter Spakowski	01/04/2020 to 12/03/2024 (1441 days) (25,000 + 200 X 1441 = 2,88,200/-)	25,000 + 1,00,000 = Rs.1,25,000/-
5.	Maria Martina Lucia Marcalain Spakowski	01/04/2020 to 12/03/2024 (1441 days) (25,000 + 200 X 1441 = 2,88,200/-)	25,000 + 1,00,000 = Rs.1,25,000/-
6.	Krutika Ramesh Shinde	01/04/2020 to 12/03/2024 (1441 days) (25,000 + 200 X 1441 = 2,88,200/-)	25,000 + 1,00,000 = Rs.1,25,000/-
TOTAL			Rs.12,24,200/-

TOTAL PENALTY PAYABLE: Rs.12,24,200/-

4. The punishment for contravention of section 90 is prescribed under section 90(11) of the Companies Act, 2013 which states that –

" If a company, required to maintain register under sub-section (2) and file the information under sub-section (4) or required to take necessary steps under sub-section (4A), fails to do so or denies inspection as provided therein, the company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day, after the first during which such failure continues, subject to a maximum of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of two hundred rupees for each day, after the first during which such failure continues, subject to a maximum of one lakh rupees."

5. Appellants have filed Form-ADJ vide SRN AB1581377 dt. 25/10/2024. 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 dated 23/08/2024.

6. Grounds of Appeal & Relief sought:

- The penalties levied under section 454 of the Act to be reduced.
- To revise the order and to impose penalty on only officer who is in default i.e. Applicant No.1, 3 & 6.
- As per Section 2(60), "Officer in default" should be Managing Director and Company Secretary of the company who were present at said period.

7. The matter was posted for hearing as per Section 454(5) read with Section 454(7) of the Act on 14/01/2025. Shri Yogesh Choudhary, Practicing Company Secretary (PCS), 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 90 of the Companies Act, 2013. However, he argued that as per Section 2(60) read with Section 90(11) of the Companies Act, 2013, "Officer in default" should be Managing Director and Company Secretary of the company and not all directors of the company.

8. RoC, Mumbai vide further letter dt.24/12/2024 has stated that

- a. There was no argument regarding non-compliance as there is crystal clear default on the part of the company and its officers in default.
- b. The officers in default should be Applicants No.1, 3 & 6 only.

9. Facts of the Case:

- a. On examination of the application/appeal, it is seen that the Company has failed to file return of Significant Beneficial Owners of the company and changes therein with the Registrar in Form No. BEN-2 within 30 days from the date of receipt of declaration from Significant Beneficial Owner, as prescribed in Rule 4 of Companies (Significant Beneficial Owners) Rules, 2018 as per provisions of Section 90 of the Companies Act, 2013.
- b. RoC vide his letter dt.24/12/2024 has accepted the issues raised by the appellant in the appeal and has further stated that Appellants mentioned at Sr. No.1, 3 & 6 are only liable for penalty.

10. Taking into consideration the Adjudication Order of the Registrar of Companies, Mumbai; submissions made by the Appellants in their application as well as oral submissions of authorized representative during the hearing; further letter of RoC, Mumbai; this forum is of the view that the Adjudicating Officer has not followed the mandatory provisions of Section 2(60) read with 90(11) of the Companies Act, 2013 and therefore, the penalty imposed on the Appellants mentioned at Sr. No.2, 4 & 5 is 'modified' and the penalty imposed Appellants mentioned at Sr. No.1, 3 & 6 is 'confirmed' under Section 454(7) of the Companies Act, 2013 which is as under:

Sr. No.	Name of the Company / Director	Penalty imposed by Adjudicating Officer (In Rs.)	Penalty 'Modified / Confirmed' by Regional Director (In Rs.)	Remarks of this forum
1.	Pioneer Adhesives Private Limited	6,00,000/-	6,00,000/-	Confirmed
2.	Rajendra Yeshwant Kulkarni	1,25,000/-	Waived Off	Modified
3.	Joydeep Datta	1,24,200/-	1,24,200/-	Confirmed
4.	John II Walter Spakowski	1,25,000/-	Waived Off	Modified
5.	Maria Martina Lucia Marcalain Spakowski	1,25,000/-	Waived Off	Modified
6.	Krutika Ramesh Shinde	1,25,000/-	1,25,000/-	Confirmed
TOTAL		Rs.12,24,200/-	Rs.8,49,200/-	


11. In view of above, the said appeal /application is hereby disposed off and the appellants are hereby, directed to pay the Adjudication Fees which have been 'Modified/Confirmed' by the Regional Director at Para '10(a)' (as per the above table) within 90 days from the date of receipt of this order, failing which, Registrar of Companies, Mumbai, is directed to file prosecution under Section 454(8) of the Companies Act, 2013.

12. The appellants are also directed to submit the proof of payment of penalty imposed upon them (challans) to the Office of Registrar of Companies, Mumbai, for their record and for further necessary action.

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

Signed and sealed on 30th day of January 2025.




(SANTOSH KUMAR)
REGIONAL DIRECTOR
WESTERN REGION, MUMBAI

To,

1. Pioneer Adhesives Private Limited,
Office no 506, 5th floor, Corporate Annex,
Sonawala Road, Near railway station, Goregaon East,
Mumbai, Maharashtra, 400063, India.
2. Rajendra Yeshwant Kulkarni,
A-503, Brentwood, Hiranandani Gardens, Powai,
Mumbai, 400076, Maharashtra, India.
3. Joydeep Datta,
B/103, Sankalp 1, Pimpripada Film City Road,
Malad East 400097, Maharashtra, India.
4. John II Walter Spakowski,
Pioneer Adhesives Private Limited,
Office no 506, 5th floor, Corporate Annex,
Sonawala Road, Near railway station, Goregaon East,
Mumbai, Maharashtra, 400063, India.
5. Maria Martina Lucia Marcalain Spakowski,
Pioneer Adhesives Private Limited,
Office no 506, 5th floor, Corporate Annex,
Sonawala Road, Near railway station, Goregaon East,
Mumbai, Maharashtra, 400063, India.

6. Krutika Ramesh Shinde,
Plot No 30, Abhinav Nagar, Near National Park, Borivali East,
Mumbai 400066, Maharashtra, India.
7. Registrar of Companies, Mumbai.
8. E-Gov Cell, Ministry of Corporate Affairs, New Delhi.
9. Master Copy.
10. Office Copy.



(TUSHAR WAGH, ICLS)
DEPUTY DIRECTOR