Azadi Ka Amrit Mahotsav

G20 भारत 2023 INDIA

भारत सरकार/GOVERNMENT OF INDIA
Tel. 2321907
कॉरपोरेट कार्य मंत्रालय/MINISTRY OF CORPORATE AFFAIRS
कम्पनी रजिस्ट्रार का कार्यालय, मध्यप्रदेश,
Office of The Registrar of Companies, Madhya Pradesh
संजय कॉम्पलेक्स, 'ए' ब्लॉक, तीसरी मंजिल,/ Sanjay Complex, 'A' Block, 3rd Floor,
By Speed Post
जयेन्द्रगंज, ग्वालियर – 474 009/ Jayendraganj, Gwalior – 474009.
E.mail: roc.gwalior@mca.gov.in

No. ROC-G/Adj. Pen./u/s. 203(1)/Sylph Technologies/2762 Dated: 06 DEC 2023

1. M/s. Sylph Technologies Limited, 201 E Johari Palace 51, M.G. Road, Tukoganj, Indore- 452001, M.P.

   E-mail I.D.: sylph.t@yahoo.com

2. Sh. Vineet Shrivastav S/o. Sh. Prafulla Chandra Shrivastav, director (DIN-00838244), Scheme No. 54, A.B. Road, Satya Sai Square, Vijay Nagar, Indore 452001, M.P.

   E-mail: vineetshrivastava1956@gmail.com

3. Sh. Rajesh Jain S/o. Sh. Shantilal Jain, director (DIN- 01704145), 54, Patrakar Colony, Indore 452001, M.P.

   E-mail I.D.: rajeshjain1962@yahoo.com

4. Jayshri Jain D/o. Sh. Kamal Kumar Bhandari, director (DIN- 01824937), 54, Patrakar Colony, Indore 452001, M.P.

   E-mail I.D.: rajeshjain1962@yahoo.com

5. Regional Director, North-Western Region, Ministry of Corporate Affairs, Ahm (Gujarat).
6. E-governance cell for uploading the document.

विषय: कंपनी अधिनियम 2013 की धारा 203(1) का उलंघन करने पर कंपनी अधिनियम 2013 की धारा 454 के तहत आदेश और सपठित (एडजुडिकेशन ऑफ़ पेनलटीएस), नियम, 2014.

महोदय/महोदया,

कृपया M/s. Sylph Technologies Limited के मामले में पारित दिनांक 05.12.2023 के आदेश की प्रति संलग्न कर आवश्यक अनुपालन हेतु प्रेषित किया जा रहा हैं.

भवदीय/Yours faithfully,

संलग्नक: उपरोक्तानुसार

मुकेश कुमार सोनी

मुकेश कुमार सोनी/ (Mukesh Kumar Soni, ICLS)
निर्णायक अधिकारी/ कम्पनी पंजीयक/ Registrar of Companies,
मध्यप्रदेश, ग्वालियर/ Madhya Pradesh, Gwalior.

In the matter of Companies Act, 2013

And

In the matter of adjudication proceeding under sub-section (1) of Section 203 of the Companies Act, 2013.

And

In the matter of M/s. Sylph Technologies Limited

(CIN- L36100MP1992PLC007102)

Date of hearing 05th December, 2023

Appointment of adjudicating officer:

1. Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad.II dated 24.03.2015 appointed undersigned as adjudicating officer in exercise of the powers conferred by Section 454 of the Companies Act, 2013 (hereinafter known as "Act") read with Companies (Adjudication of Penalties) Rules, 2014 for adjudicating penalties under the provisions of this Act.

Company:

2. Whereas company M/s. Sylph Technologies Limited (CIN- L36100MP1992PLC007102) [herein after known as company] is a registered company with this office under the provisions of Companies Act, 2013 having its registered office situated at201 E Johari Palace 51 MG Road, Indore Tukoganj, Indore 452001, M.P. as per the MCA website.

Facts about the case:

3. Whereas inquiry u/s. 206(4) of the Companies Act, 2013 is conducted by the IO. The Directorate vide its direction dated 01.05.2023 has directed to ROC, Gwalior to take necessary action in the matter for violation of Section 203(1) of the Companies Act, 2013. During the inquiry u/s. 206(4) of the Companies Act, 2013, the company has no CFO appointed since 2015-16 to 2018-19. Thus, it appears that the company has violated the provisions of Section 203(1) of the Companies Act, 2013 which attracted penal provisions u/s. 203(5) of the Companies Act, 2013 for the period from 02.11.2018 to 31.03.2019.

4. Subsequently, this office had issued show cause notice U/s. 203(1) of the Companies Act, 2013 to the company and its officers in default vide No. ROC-G/Adj.Pen./u/s. 203(1)/Sylph/Tech./2377 to 2381 dated 20.10.2023 to the company and officers in default.

5. In response of this office show cause notice dated 20.10.2023, this office has received letter dated 27.10.2023 from Sh. Vineet Shrivastav, therein he had informed that he has resigned from the directorship of the company in March, 2022. He has also informed that 30 days time to respond of notice is required.

6. One another letter also received by this office on 31.10.2023 from Shri Rajesh Jain and Jayshri Jain and both have informed that they have resigned from the directorship of the company in March, 2022. They have also requested to grant 30 days time for responding the show cause notice dated 20.10.2023.

7. A letter is also received on 31.10.2023 from Sh. Rajesh Jain and had informed that Shri Devendra Chelawat has expired in April, 2021, a certificate in this regard is also enclosed and had requested to drop the proceedings against Shri Devendra Chelawat.

8. Thereafter, "Notices of Inquiry" vide No. ROC-G/Adj. Pen. /U/s. 203(1)/Sylph Technologies/2630 to 2633 dated 22.11.2023 were issued to the company and its officers in default.

9. In response of aforesaid notice dated 22.11.2023, this office has received a mail dated 30.11.2023 from Rajesh Jain and Jayshri Jain and informed on the following points:

   (a) The notices are for the violation of Section 203(1) of the Companies Act, 2013 for non-appointment of CFO during the period 02.11.2018 to 30.03.2019, whole time director during the period 02.11.2018 to 31.03.2019 and company secretary during the period 02.11.2018 to 30.05.2019.

(b) That we have applied for compounding of offences with authority by filing requisite form for the offence before 02.11.2018.

(c) That we were non-executive directors of the company during the period of violation as mentioned in your notice and we were not looing for day to day affairs of the company.

(d) We inform you that we have tried our level best to appoint the eligible person in the company, but we could not find eligible person who could have accepted the appointment in the company looking to the financial position and business of the company.

(e) That the default by the company was not on account of our fault, but because of circumstances in the market and financial situation of market and company.

(f) That due to out continuous efforts we could find the eligible person and appointed them.

(g) That we have not drawn any remuneration nor sitting fees for the board meetings in the entire duration of our directorship. Meaning thereby we have not gained any money from the company.

(h) It is not out of place to mention that since the company's financial position was not good, so Rajesh Jain as director have given interest free loan to company to make company fulfil its financial obligations and had requested to condone the violation of Section 203 as this was not international.

(i) They have also informed that they have resigned from the directorship of the company in the month of March, 2022.

(10)In response of aforesaid notice dated 22.11.2023, this office has also received a mail dated 30.11.2023 from Vineet Shrivastav informed on the following points:

(a) The notices are for the violation of Section 203(1) of the CA, 2013 for non-appointment of CFO-during the period 02.11.2018 to 30.03.2019, whole time director-during the period 02.11.2018 to 31.03.2019 and CS- during the period 02.11.2018 to 30.05.2019.

(b) That they he has applied for compounding of offences with authority by filing requisite form for the offence before 02.11.2018.

(c) That he was non-executive independent director of the company during the period of violation as mentioned in notice and he was not looking for day affairs of the company.

(d) He informed that he has tried their lever best to appoint the eligible person in the company, but company could not find eligible person who could have accepted the appointment in the company looking to the financial position and business of the company.

(e) That the default by the company was not on account of their fault, but because of circumstances in the market and financial situation of market and company. He has raised this issue at various meetings of board of directors which is duly accounted for. Hence, violation by the company is not on account of his and he is not at fault for any of the violation by the company.

(f) That due to his continuous efforts they could find the eligible person and appointed them.

(g) That he has not drawn any remuneration nor sitting fees for the board meetings in the entire duration of their directorship. Meaning thereby he has not gained any money from the company and has request to condone the violation of section 203 as this was not intentional as he was only independent director of the company.

(h) He also inform that he has resigned from the directorship of the company in the month 2022 and he is neither director nor shareholder of the company

(11)As per [Rule 3(3), companies (Adjudication of Penalties) Rules, 2014 and the date of hearing was fixed on 05.12.2023 at 11.00 A.M. in the office of Registrar of Companies, Madhya Pradesh, Sanjay Complex, A-Block, 3rd Floor, Jayendraganj, Gwalior.

(12)On hearing date no person of the company or representative of the director has attended the hearing which was fixed on 30.11.2023.

(13)Order:

Having considered the facts and circumstances of the case and after taking into account the factors above and letter dated 20.10.2023 & 22.11.2023 issued by ROC, Gwalior, it is concluded that the company and its officers in default are liable for penalty as prescribed under Section 203(5) of the Act for default is made in complying with the requirements of Section 203(1) of the Act of the company viz. Sylph Technologies Limited 210 days (i.e. 02.11.2018 to 30.05.2019) in terms of Section 203(1)of the Companies Act, 2013.

(14)Accordingly, I am inclined to impose a penalty as prescribed under sub-section 203(5) of the Companies Act, 2013. The details of the penalty imposed on the company and officers in default are shown in the table below:

Nature of default	Relevant section under the Companies Act, 2013	Name of persons on whom penalty is imposed	No. of days of default	Total penalty as per Section 203(5)	Penalty imposed
Non-appointment of CFO	S. 203(1)	On company	210	Rs. 5,00,000/- + (1000x210) Rs. 7,10,000/-. Maximum penalty Rs. 5,00,000/-	Rs. 5,00,000/-
		Vineet Shrivastav	210	Rs. 50,000/- + (1000x210) Rs.2,60,000/- Maximum penalty Rs. 5,00000/-	Rs. 2,60,000/-
		Rajesh Jain	210	Rs. 50,000/- + (1000x210) Rs.2,60,000/- Maximum penalty Rs. 5,00000/-	Rs. 2,60,000/-
		Jayshri Jain	210	Rs. 50,000/- + (1000x210) Rs.2,60,000/- Maximum penalty Rs. 5,00000/-	Rs. 2,60,000/-

(15) I am of this opinion that penalty is commensurate with the aforesaid failure committed by the notice and penalty so imposed upon the officers-in-default shall be paid from their personal sources/income. It is further directed that penalty imposed shall be paid through the Ministry of corporate Affairs portal only as mentioned under Rule 3(14) of Company (Adjudication of Penalties) (Amendment) Rules, 2019 under intimation to this office.

(16) The penalty amount shall be remitted by the company through MCA21 portal within 60 days from the date of order. The company needs to file INC-28 as per the provisions of the act attaching the copy of adjudication order alongwith payment challans.

(17) Any person aggrieved by the order of adjudicating authority under Section 3 of Section 454 may prefer an appeal to the Regional Director having jurisdiction in the matter.

(18) Every appeal under sub-section (5) of section 454 shall be filed within 60 days from the date on which the copy or order made by the adjudicating authority is received by the aggrieved person and shall be in such form, manner and be accompanied by such fee as may be prescribed.

(19) As per Section 454(8) (i) where a company fails to comply with the order made under sub-section (3) or sub-section (7) as the case may be within a period of 90 days from the date of receipt of the copy of the copy of the order, the company shall be punishable with fine which shall not be less than twenty-five thousand but which may extend to five lakh rupees.

(20) Where an officer of a company or any other person who is in default fails to comply with the order made under sub-section (3) or sub-section (7) as the case may be within a period of 90 days from the date of receipt of the order such officer shall be punishable with imprisonment which may extend to six months or with the fine which shall not be less than twenty five thousands rupees but which may extend to one lakh or with both.

(21) This order is without prejudice to the rights available to this office to initiate separate action including but not limited to the penal actions for contraventions of related, incidental and/or continuing offences/contraventions.

(22) In terms of the provisions of sub-rule 3 of the Companies (Adjudication of Penalties) Rules, 2014 copy of the order is being sent to Sylph Technologies Limited, 201, E-Johari Palace, 51, M.G. Road, Tukoganj, Indore 452001, M.P., Sh.Vineet Shrivastav, Scheme No. 54, A.B. Road, Satya Sai Square, Vijay Nagar, Indore, M.P., Sh. Rajesh Jain, 54, Patrakar Colony, Indore 452001, M.P. and Jayshri Jain, 54, Patrakar Colony, Indore, M.P. RD, NWR, Ahmedabad and will also upload on MCA website.

The adjudication notice stand disposed off with this order.

मुकेश कुमार सोनी/ (Mukesh Kumar Soni, ICLS)
निर्णायक अधिकारी/ कम्पनी पंजीयक/ Registrar of Companies,
मध्यप्रदेश, ग्वालियर/ Madhya Pradesh, Gwalior.

Signed on this 05th December, 2023
Place: Gwalior, Madhya Pradesh.