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भारत सरकार/GOVERNMENT OF INDIA

कारपोरेट कार्य मंत्रालय/Ministry of Corporate Affairs

कम्पनी रजिस्ट्रार कार्यालय ( प. बंगाल ) /Office of the Registrar of Companies (West Bengal)  
निजाम पैलेस, दुसरा एम एस ओ बिल्डिंग, द्वितीय तल/Nizam Palace, 2<sup>nd</sup> M. S. O. Building,  
2nd Floor, आचार्य जगदीश चन्द्र बोस रोड 234/4, Acharya Jagadish Chandra Bose Road  
कोलकाता / KOLKATA - 700 020.

No. ROC/ADJ/2023/033173/ 1862-1865

Date: 23.05.2023

**SUBJECT: SERVICE OF ORDER OF ADJUDICATION PROCEEDINGS FOR VIOLATION OF SECTION 203 OF THE COMPANIES ACT, 2013 IN THE MATTER OF APEX TRADERS & EXPORTERS LTD**

Sir,

Please find herewith a copy of the Order passed by Adjudicating Officer dated 09.05.2023 for necessary compliance within the prescribed time failing which penal action will follow without further intimation.

Encl: As stated

To,

✓ 1. M/S. APEX TRADERS & EXPORTERS LTD  
PODDAR POINT, 10<sup>TH</sup> FLOOR, 113, PARK STREET,  
KOLKATA 700016, WEST BENGAL, INDIA

✓ 2. PAWAN KUMAR AGARWAL (Director)  
URMILA APARTMENT, GHOSHPADA, DESHBANDHUNAGAR,  
KOLKATA 700059, WEST BENGAL, INDIA

*[Signature]*  
23/5/23  
[A.K. Sethi, ICLS]  
Registrar of Companies  
& Adjudicating Officer  
West Bengal  
कम्पनी रजिस्ट्रार  
Registrar of Companies  
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Office of the Registrar Companies (West Bengal)  
कोलकाता / KOLKATA-700020



3. ✓ DURGA PRASAD SHARMA (CEO)  
379 DAKSHINDARI ROAD, NEAR INDIRA GANDHI SCHOOL,  
SHREEBHUMI LAKETOWN 700048, WEST BENGAL, INDIA

4. ✓ PARMJEET KAUR WALIA (Director)  
21/1 FLAT 1C, GORACHAND ROAD, INTALLY 700014, WEST  
BENGAL, INDIA



o/c

Telegram : COMPANYREG

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 निजामपैलेस, दुसराएमएसओबिल्डिंग, द्वितीयतल/Nizam Palace, 2<sup>nd</sup> M. S. O. Building, 2nd Floor  
 आचार्यजगदीशचन्द्रबोसरोड/ 234/4, Acharya Jagadish Chandra Bose Road  
 कोलकाता/KOLKATA – 700 020

No. ROC/LEGAL/ADJ/2022/033173/penalty order/ 1866-1867 Dated: 23-05-2023

ADJUDICATION ORDER FOR PENALTY U/S 454(3) OF THE COMPANIES ACT, 2013 READ WITH RULE 3 OF THE COMPANIES (ADJUDICATION OF PENALTIES) RULES, 2014 AS AMENDED BY THE COMPANIES (ADJUDICATION OF PENALTIES) RULES, 2019 IN MATTER OF NON COMPLIANCE OF THE PROVISIONS OF SECTION 203(4) OF THE COMPANIES ACT, 2013 READ WITH RULE 8 OF COMPANIES (APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL) RULES, 2014

In respect of: APEX TRADERS &amp; EXPORTERS LTD (CIN: L51909WB1980PLC033173)

**1. 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(1) of the Companies Act, 2013 [herein after known as Act] read with Companies (Adjudication of Penalties) Rules, 2014 for adjudicating penalties under the provisions of this Act. The undersigned vide Companies (Amendment) Ordinance, 2019 is entrusted to adjudicate penalties under section 203 of the Companies Act, 2013 with effect from 02.11.2018.



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 कम्पनी रजिस्ट्रार कार्यालय (प. बंगाल)  
 Office of the Registrar Companies (West Bengal)  
 कोलकाता / KOLKATA-700020

## 2. Company:-

**APEX TRADERS & EXPORTERS LTD** [herein after known as Company] is a registered company with this office incorporated on **09.12.1980** under the provisions of Companies Act, 1956 having its registered office as per MCA21 Registry at address **PODDAR POINT, 10TH FLOOR 113, PARK STREET KOLKATA WB 700016 INDIA.**

## 3. Facts about the Case:-

1) The provisions of section 203(1) of the Act, provides inter alia that:

"Every company belonging to such class or classes of companies as may be prescribed shall have the following whole-time key managerial personnel:

- i) Managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;
- ii) Company secretary; and
- iii) Chief Financial Officer"

Rule 8 of the Companies (Appointment and Remuneration of managerial Personnel) Rules, 2014 (herein after referred to as 'the Rules') provides inter alia that:

"Every listed company and every other public company having a paid-up-share capital of ten crores rupees or more shall have whole-time key managerial personnel."

Section 203(5) of the Act provides inter alia 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".

2) As per the record available with this office, it has been found that the Company is a listed Company. Further it has also been observed that the Company has not appointed any Company Secretary since 23.04.2019.

3) Accordingly, the adjudication officer has issued adjudication notice vide No. LEGAL/ADJ/2022/033173 dated 24.06.2022 (herein after referred as Adjudication Notice) under Section 454(1) read with 203 of the Companies Act, 2013 read with Rule



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3(2) of Companies (Adjudication of Penalties), 2014 as amended in Amendment Rules, 2019, to the company and its officers in default for the violation of the provisions of the act as mentioned in para "1 & 2" above giving an opportunity to submit a reply as to why the penalty should not be imposed under the provisions of 203(5) of the Act against the Company and its officers in default for the above stated violations, followed by a notice of hearing scheduling a physical hearing on 02.11.2022 vide letter no. ROC/ADJ/2022/033173 dated 26.10.2022.

4) Reply to the Adjudication notice, as mentioned above in para 3, have been received from the company dated 15.07.2022 restating as under:

- a) The Company although listed at Calcutta Stock Exchange (CSE), it has a small capital base of Rs. 20,00,000/-.
- b) The CSE itself has been practically defunct for almost a decade now and does not provide any benefit of liquidity to the Company's shareholders.
- c) Number of total shareholders are very small (i.e., 142).
- d) That about 120 of the said shareholders i.e., 82% hold 100 shares or less and there has been no movement in their shareholding during the past over 15 years.
- e) There has been no movement in the capital of the Company since last 15 years.
- f) There has been no complaint or grievance from any of the shareholder or any other stakeholder of the Company since incorporation.

5) **Shri Jnana Ranjan Dhal**, Advocate of 7, CR Avenue, 3<sup>rd</sup> Floor, Kolkata- 700072 being the Authorized Representative of the Company and all of its Directors and officers, attended the subsequent hearing physically which was scheduled on 29.11.2022 vide hearing notice dated 16.11.2022.

AND WHEREAS, authorized representative submitted that:



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*Reddy*  
23/5/23

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- a) The Company is listed at Calcutta Stock Exchange. However, the Company did not have any turnover during the intervention period (including period of Covid-19). Thus, the Company could not appoint a Company Secretary.
- b) The Company appointed Mr. Raunak Gupta (M No. A- 43468) as a whole- time Company Secretary and Chief Financial Officer of the Company on 15.07.2022.
- 6) Furthermore, in light of the above, the Authorized representative of the applicants requested to grant exemption from appointment of a Company Secretary and drop the adjudication proceedings against the Company as well as present directors of the Company.

**ORDER**

1. The applicant company and its officers, who have defaulted the provisions of section 203(1) r/w 203(5) of the Act for non-appointment of Whole- Time Company Secretary are liable for penalties under section 203(5) of the Act.
2. In exercise of the powers conferred vide Companies (Amendment) Ordinance, 2019, the undersigned is entrusted to adjudicate penalties under section 203 of the Companies Act, 2013 with effect from 02.11.2018. After taking into account the factors mentioned herein above and considering "the relaxation of period of limitation due to Covid-19 pandemic" permitted by the apex court of India vide its Order dated 10.01.2022, I do hereby impose the penalty of Total **Rs. 10,58,000/-** (Rupees Ten Lakh Fifty Eight Thousand only) i.e., **Rs. 5,00,000/-** (Rupees Five Lakh only) on the Company and **Rs. 1,86,000/-** (Rupees One Lakh Eighty Six Thousand only) on each of its 3 (three) officers-in-default pursuant to Rule 3(12) of Companies (Adjudication Of Penalties) Rules, 2014 and the proviso of the said Rule and Rule 3(13) of Companies (Adjudication Of Penalties) Rules,



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2014 r/w General Circular No. 1/2020 dated 02.03.2020; as per table below for violation of section 203(4) r/w 203(5) of the Act:

| Name of the Applicant Company/ Director                                                                                               | No. of days of Default | First Default (in Rs. ) | Continuing Default (in Rs. ) | Total maximum Penalty (in Rs.) |
|---------------------------------------------------------------------------------------------------------------------------------------|------------------------|-------------------------|------------------------------|--------------------------------|
| <b>APEX TRADERS &amp; EXPORTERS LTD</b><br>(Period of default From 01.03.2022 to 14.07.2022)                                          | 136                    | 5,00,000/-              |                              | 5,00,000/-                     |
| <b>Pawan Kumar Agarwal</b><br>[DIN: 00291480]<br>[Appointed on 10.11.2016]<br>(Period of default From 01.03.2022 to 14.07.2022)       | 136                    | 50,000/-                | 136 * 1,000=<br>1,36,000     | 1,86,000/-                     |
| <b>Durga Prasad Sharma</b><br>[PAN: AKOPS7089P] CEO<br>[Appointed on 30.03.2019]<br>(Period of default From 01.03.2022 to 14.07.2022) | 136                    | 50,000/-                | 136 * 1,000=<br>1,36,000     | 1,86,000/-                     |
| <b>Parmjeet Kaur Walia</b><br>[DIN: 02891474]<br>[Appointed on 30.03.2019]<br>(Period of default From 01.03.2022 to 14.07.2022)       | 136                    | 50,000/-                | 136 * 1,000=<br>1,36,000     | 1,86,000/-                     |

3. The noticee(s) shall pay the said amount of penalty individually for the company and its directors (out of own pocket) by way of e-payment [available on Ministry website [www.mca.gov.in](http://www.mca.gov.in)] under "Pay miscellaneous fees" category in MCA fee and payment Services within 90 days of receipt of this order. The Challan/SRN generated after payment of penalty through online mode shall be forwarded to this Office Address.



*Relly*  
23/5/2023

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कोलकाता / KOLKATA-700020



4. Appeal against this order may be filed in writing with the Regional Director (ER), Ministry of Corporate Affairs, Kolkata located at Nizam Palace, 2nd M. S. O. Building, 3rd Floor, 234/4, A.J.C. Bose Road, Kolkata-700020, West Bengal within a period of sixty days from the date of receipt of this order, in Form ADJ [available on Ministry website [www.mca.gov.in](http://www.mca.gov.in)] setting forth the grounds of appeal and shall be accompanied by a certified copy of the this order. [Section 454(5) & 454(6) of the Act read with Companies (Adjudicating of Penalties) Rules, 2014].
5. Your attention is also invited to section 454(8)(ii) of the Act regarding consequences of non-payment of penalty within the prescribed time limit of 90 days from the date of the receipt of copy of this order in terms of the provisions of section 454(8)(i) of the Act.
6. In terms of the provisions of sub-rule (9) of Rule 3 of Companies (Adjudication of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019, copy of this order is being sent to APEX TRADERS & EXPORTERS LTD and all directors/officers in default mentioned herein above and also to Office of the Regional Director (Eastern Region) and Ministry of Corporate Affairs at New Delhi.
7. Date of hearing: 29<sup>th</sup> November, 2022

Date of Pronouncement: 23<sup>rd</sup> May, 2023



*Pethi*  
23/05/2023

[A. K. Sethi, ICLS]  
Adjudicating Officer & Registrar of Companies,  
West Bengal

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URMILA APARTMENT, GHOSHPADA, DESHBANDHUNAGAR,  
KOLKATA 700059, WEST BENGAL, INDIA

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26 MAY 2023

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2<sup>nd</sup> M.S.O. Building, 2<sup>nd</sup> Floor, Kolkata-700020

✓ Director, Legal, Ministry of Corporate Affairs, in compliance to Rule 3(9) of Companies (Adjudication of Penalties) Rules, 2014.

Office copy.

• E-mail to content Manager for publication on Ministry's website



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*Relly*  
*23/5/23*

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