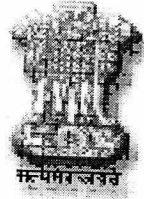


☎ 0612-2950121



E-Mail : roc.patna@mca.gov.in
Website : www.mca.gov.in

भारत सरकार/Government of India
कारपोरेट कार्य मंत्रालय/ Ministry Of Corporate Affairs
कार्यालय कम्पनी रजिस्ट्रार, बिहार-सह-शासकीय समापक उच्च न्यायालय, पटना
Office of the Registrar of Companies, Bihar-Cum-Official Liquidator, High Court, Patna
चौथा तल, 'क' खण्ड, मौर्या लोक काम्प्लेक्स/4th Floor, 'A' Wing, Maurya Lok Complex
डाक बंगला रोड, पटना-८००००१/Dakbunglow Road, Patna-800001

No. ROC/PAT/Sec. 203/13364/ 686

Dated: 27.07.2023

Order for penalty for violation of section 203 of the Companies Act, 2013

In the Matter of

SARADA PLEASURE AND ADVENTURE LIMITED

CIN: U01132BR2008PLC013364

Appointment of Adjudication Officer:-

1. The Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014- Ad. II dated 24.03.2015 has appointed the undersigned as Adjudicating Officer in exercise of the powers conferred under section 454 of the Companies Act, 2013 (herein after known as Act) read with Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

Company:-

2. Whereas, Company M/s. Sarada Pleasure And Adventure Limited, CIN-U01132BR2008PLC013364 (herein after known as Company) is a company incorporated on 20.06.2014 under the provisions of Companies Act, 1956/2013 in the state of Bihar and having its registered office situated at Office No S-5, Fifth Facing Towards, Chandi House Residential Complex, Exhibition Road, Patna, Bihar, 800001, India as per MCA website.

Facts about the case:-

3. As per the provisions of section 203(1) of the Act, 2013: *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*

Further, as per Rule 8 of The Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014: *Every listed company and every other public company having a paid-up share capital of ten crore rupees or more shall have whole-time key managerial personnel.*

However, it is observed that the paid-up share capital of the company is Rs. 22,25,67,700/- but the company has never appointed any Company Secretary, Managing Director and Chief Financial Officer as required under section 203(1) of the Companies Act, 2013 r/w. Rule 8 of The Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014.

Therefore, it appears that the provision of section 203(1) of the Companies Act, 2013 has been contravened by the company and its directors/officers in default w.r.t non- Appointment of Key Managerial Personnel-Managing Director, Company Secretary and Chief Financial Officer.

4. Whereas, this office has issued show cause notice for default under section 203(1) of the Companies Act, 2013 vide this office letter no. ROC/PAT/SCN/Sec-203/13364/432-435 dated 12.06.2023.
5. However, this office has not received any reply from the company and its directors. Hence, the provisions of Section 203(1) of the Companies Act, 2013 has been contravened by the company and its directors/officers and therefore they are liable for penalty u/s. 203(5) of the Companies Act, 2013 since the date of implementation of the Act, i.e., 01.04.2014.

Section 203(5) 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".*

6. Further Section 446B states that *"if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be".*
7. As per clause 85 of section 2 of the Companies Act, 2013, *small company means a company whose paid up capital and turnover shall not exceed rupees four crore and rupees forty crore respectively. As per MCA portal, paid up capital of the company- Sarada Pleasure And Adventure Limited is*

Rs. 2,22,56,77,000 and as regard to turnover, the company has not filed its balance sheet since financial year 2014-2015, hence turnover could not be ascertained. Therefore, the benefits of small company cannot be extended to this company while adjudicating penalty.

ORDER

8. Having considered the facts and circumstances of the case and after taking into account the provisions of Rule-11 of Companies (Adjudication of Penalties) Rules, 2014 (as amended), I hereby impose a penalty of Rs. 5,00,000 (Five Lakhs) each on Company and Directors, viz., Shri Rakesh Shrivasta and Shri Sukumar Debnath and Shri Shubhankar Ray, as per Table Below for violation of Section 203(1) of the Companies Act, 2013.

Nature of default	Violation of Section of the Companies Act, 2013	Company/Officers to whom penalty imposed	No. of days in default	Penalty for defaults (Rs.) as per Section 203(5) of the Act (Maximum amount of penalty: Rs. 500,000)	Penalty Imposed (Rs.)
Non appointment of Whole-Time Key Managerial Personnel- Managing Director, Company Secretary and Chief Financial Officer.	Section 203(1)	On Company	3405	Rs.500,000	500,000
		Shri Rakesh Shrivastav, DIN: 01863917	3405	Rs. 50,000+3405*1000= 34,55,000	500,000
		Shri Sukumar Debnath, DIN: 03212480	3405	Rs. 50,000+3405*1000= 34,55,000	500,000
		Shri Shubhankar Ray, DIN: 05260587	3405	Rs. 50,000+3405*1000= 34,55,000	500,000

(* No of days have been calculated from 01.04.2014 (date of implementation of the ACT) to till date of order, i.e., 27.07.2023)

9. The noticee shall pay the 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) under "Pay miscellaneous fees" category in MCA fee and payment Services within 90 (ninety) days of

this order. The Challan/SRN generated after payment of penalty through online mode shall be forwarded to this office.

10. Appeal against this order may be filled in writing with the Regional Director (ER), Ministry of Corporate Affairs, Kolkata, within a period of 60 (sixty) days from the date of receipt of this order, in Form ADJ (available on Ministry website www.mca.gov.in) setting forth the grounds of appeal and shall be accompanied by a certified copy of this order {Section 454(5) and 454(6) of the Act read with Companies (Adjudication of Penalties) Rules, 2014}.
11. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order.



(Aparajit Barua)
Adjudicating Officer &
Registrar of Companies-Cum-
Official Liquidator, Patna

To:-

- ✓ 1) Sarada Pleasure And Adventure Limited,
Office No S-5, Fifth Facing Towards,
Chandi House Residential Complex, Exhibition Road,
Patna, Bihar, 800001, India.
- 2) Shri Rakesh Shrivastav,
Sarda Mansion, Mallaguri, Pradhannagar,
Siliguri-734003, West Bengal, India.
- 3) Shri Sukumar Debnath,
Pradhan Nagar, Mallaguri,
Siliguri-734003, West Bengal, India.
- 4) Shri Shubhankar Ray,
Sri Nagar, P.O. Birati, P.S. Nimta,
Kolkata, 700051, West Bengal, India.

Copy to:-

The Regional Director (ER),
Ministry of Corporate Affairs,
234/4 A.J.C. Bose Road, 2nd MSO Building,
2nd Floor, Kolkata 700020, for information please.