

Application No. RD/ER/454/34/23/Appeal

**BEFORE THE REGIONAL DIRECTOR, EASTERN REGION
MINISTRY OF CORPORATE AFFAIRS, KOLKATA.**

IN THE MATTER OF

THE COMPANIES ACT, 2013

-AND-

IN THE MATTER OF

M/S. MAYFLOWER INFRA REALTY PRIVATE LIMITED
6A, KIRAN SHANKAR ROY ROAD, 2ND FLOOR, ROOM NO. 15,
KOLKATA-700001, WEST BENGAL, INDIA

-AND-

IN THE MATTER OF

Application under section 454 of The Companies Act, 2013 for preferring an appeal against the penalty order dated 31/08/2023 of Registrar of Companies, West Bengal passed for violating the provisions of section 161 of the Companies Act, 2013.

-AND-

IN THE MATTER OF

1. M/S. MAYFLOWER INFRA REALTY PRIVATE LIMITED
6A, KIRAN SHANKAR ROY ROAD, 2ND FLOOR, ROOM NO. 15, KOLKATA-700001, WEST BENGAL, INDIA
2. SANJANA GUPTA (Director)
12/A, RAMESH DUTT STREET,
BEADON STREET, KOLKATA-700006,
WEST BENGAL, INDIA

..... APPELLANTS

In the matter of MAYFLOWER INFRA REALTY PRIVATE LIMITED



Date of Hearing : 25/06/2024

Present Arun Kumar Jaiswal, Practicing Company Secretary and Authorised Representative of the Appellants

ORDER

1. The present appeal under section 454 of the Companies Act, 2013 read with the provisions of the Companies (Adjudication of Penalties) Rules, 2014 was filed vide Form ADJ bearing SRN no. F77824936 dated 03/11/2023 by the aforesaid appellants against the penalty order under section 161 of the Adjudicating Authority i.e. Registrar of Companies, West Bengal dated 31/08/2023 communicated to the appellants vide letter no. ROC/ADJ/2022/167411/11707-11709 dated 31/08/2023
2. As per the above referred order, the office of the Registrar of Companies, West Bengal had issued Adjudication notice for violation of section 161 of the Act vide no. LEGAL/ADJ/2023/167411/11707-11709 dated 03.08.2022 to the company and its officers. In this regard, a reply dated 15/09/2022 was received by the ROC, West Bengal from the Company and its officers for aforesaid Adjudication notice which was not found satisfactory by the Adjudicating Authority.

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3. Considering the above facts and circumstances of the case, the Adjudicating Authority had imposed Penalty for violation of section 161 of the Act as under :-

Name of the Applicant Company/ Director	Period of Default (FY)	Amount of Default (in Rs.)	Total maximum Penalty (in Rs.)
MAYFLOWER INFRA REALTY PRIVATE LIMITED	30.09.2015- 31.12.2015	50,000	50,000
SANJANA GUPTA DIN: 02588490	30.09.2015- 31.12.2015	50,000	50,000

4. Having considered the facts and circumstances of the case and after taking into account the factors above, ROC, West Bengal imposed a penalty of Rs. 50,000/- (Rupee fifty thousands Only) on the concerned Company and Rs. 50,000/- (Rupees Fifty Thousand Only) on the Director in default for 30.09.2015 to 31.12.2015 under Section 161 of the Act, **in Total Rs. 1,00,000/-** (Rupees One lakh Only) (i.e., Rs. 50,000 on the Company and Rs. 50,000 on Director) for failure to make compliance of the Act u/s. 161 of the Act.
5. The appeal was heard on 25/06/2024 Authorised Representative was asked to make submission regarding any infirmity in the order of Registrar of Companies. The Authorised Representative submitted



Financial Statements for F.Y 2022-23 along with the reply dated 12.03.2024 to the Appellate Authority stating interalia in para (a) that “ the new amended definition of a small company is provided under section 2(85) of the Companies Act, 2013. The Act defines a small company as a company that is not a public company and has : paid up share capital equal to or below Rs 4 crore or such higher amount specified not exceeding more tan Rs 10 crores. A turnover equal to or bellow Rs 40 crore or such a higher amount specified not exceeding more than Rs 100 crore. **Our is a Small Company, as the paid up share capital of the company is Rs 2.5 lakhs with no revenue since past three years**”. The certified true copy of the Financial Statement for the F.Y 2022-23 is attached with the reply.

6. Based on the submissions made by the Authorised Representative and Balance Sheet and Annual Return filed in the MCA Portal for the F.Y 2022-23, the Appellate Authority is of view that the Company falls under the definition of a Small Company u/s 2(85) of the Companies Act, 2013 and thus the Company and its director are liable for a lesser penalties as per section 446B of the Companies Act, 2013 for violation of section 161 of the Companies Act, 2013 Hence, the order of ROC is modified for that extent as cogent ground was made out by Authorised Representative. The undersigned by virtue of the power vested in Regional Director under section 454(7) of the Companies Act, 2013 read with the Companies (Adjudication of Penalties) Rules, 2014

modifies the order of the Registrar of Companies, West Bengal dated 31/08/2023 as under:

7.

Name of the Applicant Company/ Director	Period of Default (FY)	Amount of Default (in Rs.)	Total maximum Penalty (in Rs.)	Penalty imposed by the Appellate Authority u/s 446B of the Companies Act, 2013
MAYFLOWER INFRA REALTY PRIVATE LIMITED	30.09.2015- 31.12.2015	50,000	50,000	25,000
SANJANA GUPTA DIN: 02588490	30.09.2015- 31.12.2015	50,000	50,000	25,000

8. Having considered the facts and circumstances of the case and after taking into account the factors above, the appellate authority impose a penalty of Rs. 25,000/- (Rupee twenty five thousands Only) on the concerned Company and Rs. 25,000/- (Rupees twenty five Thousand Only) on the Director in default for 30.09.2015 to 31.12.2015 under Section 161 of the Act, **in Total Rs. 50,000/-** (Rupees one lakh fifty thousand Only) (i.e., Rs. 25,000 for Company and Rs. 25,000 on Director) for failure to make compliance of the Act u/s. 161 of the Act.



9. The Company and directors/officers of the company shall pay the amount of penalty from out of their own pockets. The amount of penalty shall be paid within a period of 90 days from the date of receipt of the copy of the order. Further, if the company and its directors fail to deposit the penalty amount within the prescribed time limit action under section 454(8)(i) and (ii) of the Companies Act, 2013 shall be initiated against the Company and its Directors.

10. Hence the instant Appeal stands disposed of accordingly.

(P.Sridhar)

REGIONAL DIRECTOR (ER)

Signed this the 09th day of July, 2024.

Copy to:-

- ✓ 1. M/S. MAYFLOWER INFRA REALTY PRIVATE LIMITED
6A, KIRAN SHANKAR ROY ROAD,
2ND FLOOR, ROOM NO. 15, KOLKATA-700001,
WEST BENGAL, INDIA
2. SANJANA GUPTA (Director)
12/A, RAMESH DUTT STREET,
BEADON STREET, KOLKATA-700006,
WEST BENGAL, INDIA
3. The Registrar of Companies,
West Bengal,..... for information in respect of his letter no.
ROC/ADJ/167411/454/2023/10224 dated 05/01/2024
4. The Officer in Charge, E-Gov. Cell, Ministry of Corporate Affairs, 5th Floor, A
wing Shastri Bhavan, New Delhi-110001,-with a request to upload this Order on
the website of the Ministry.

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