

भारत सरकार  
कारपोरेट कार्य मंत्रालय  
कंपनी रजिस्ट्रार का कार्यालय  
100, "एवरेस्ट", मरिन ड्राईव, मुंबई -  
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GOVERNMENT OF INDIA  
MINISTRY OF CORPORATE  
AFFAIRS  
OFFICE OF THE REGISTRAR OF  
COMPANIES  
100, "EVEREST", MARINE DRIVE,  
MUMBAI - 400 002  
Website : [www.mca.gov.in](http://www.mca.gov.in)  
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551 TO 554 पोस्ट डाक सेवा  
MUMBAI RD-24

No. ROC/MUM/Adj-Sec123/Multi commodity/2024/

Dated, 08 AUG 2024

Order for violation of Section 123(4) of the Companies Act, 2013.

IN THE MATTER OF MULTI COMMODITY EXCHANGE OF INDIA LIMITED  
(CIN: L51909MH2002PLC135594)

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 (hereinafter known as Act) r/w Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

COMPANY:

2. The company viz MULTI COMMODITY EXCHANGE OF INDIA LIMITED (herein after known as 'The Company') is a registered company with this office under the provisions of the Companies Act, 2013 having its registered office as per MCA21 Registry at address EXCHANGE SQUARE, CHAKALA, SUREN ROAD, ANDHERI (EAST), MUMBAI, Maharashtra, 400093, India.

LAW RELATING TO DECLARATION OF DIVIDEND:

3. 123. Declaration of Dividend

(1) No dividend shall be declared or paid by a company for any financial year except –

(a) out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2), or out of the profits of the company for any

*previous financial year or years arrived at after providing for depreciation in accordance with the provisions of that sub-section and remaining undistributed, or out of [both:].*

*Provided that in computing profits any amount representing unrealised gains, notional gains or revaluation of assets and any change in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded; or” ]*

*(b) out of money provided by the Central Government or a State Government for the payment of dividend by the company in pursuance of a guarantee given by that Government:*

*Provided that a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company:*

*Provided further that where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and 7[transferred by the company to the free reserves], such declaration of dividend shall not be made except in accordance with such rules as may be prescribed in this behalf:]*

*Provided also that no dividend shall be declared or paid by a company from its reserves other than free reserves.*

*Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.*

*(2) For the purposes of clause (a) of sub-section (1), depreciation shall be provided in accordance with the provisions of Schedule II.*

*(3) The Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend:*

*Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.]*

*(4) The amount of the dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within five days from the date of declaration of such dividend.]*

*(5) No dividend shall be paid by a company in respect of any share therein except to the registered shareholder of such share or to his order or to his banker and shall not be payable except in cash:*



*Provided that nothing in this sub-section shall be deemed to prohibit the capitalisation of profits or reserves of a company for the purpose of issuing fully paid-up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company:*

*Provided further that any dividend payable in cash may be paid by cheque or warrant or in any electronic mode to the shareholder entitled to the payment of the dividend.]*

*(6) A company which fails to comply with the provisions of sections 73 and 74 shall not, so long as such failure continues, declare any dividend on its equity shares.*

#### FACTS ABOUT THE CASE:

4. The Company filed Compounding Application U/s 441 of the Companies Act, 2013 for contravention/non-compliance of Provision of Sec 123(4) of the Company Act, 2013 vide SRN F61180816 dt 05/05/22023.
5. The office of the Undersigned has forwarded report on the Compounding Application to the office of RD(WR). In this regard, personal hearing was given on 15/12/2023 to the Applicants before RD(WR). During the hearing submission made by Shri Sudeshkumar V Joshi, PCS that penal provision for violation of Sec 123 (4) of the Companies Act, 2013 are provided u/s 450 of the Act, which has been amended by Companies Amendment) Act, 2020 w.e.f. 21/12/2020 wherein word 'fine' has been substituted with word 'penalty'. Therefore, the default made u/s 123(4) falls under adjudication power of the Concerned ROC as the date of default is 03/10/2022.
6. The office of the undersigned is in receipt of the letter No 4809 dt 27/12/2023 from the office of the RD(WR) wherein direction has been given to treat the compounding application as Adjudication Application and after taking necessary steps, action u/s 454 of the Companies Act, 2013 may be taken as per law.
7. The Company in its application stated that the Shareholders of the Company at the 20<sup>th</sup> AGM held on 27/09/2022 have passed an Ordinary Resolution for declaration of Final Dividend at Rs. 17.40 per equity Share aggregating Rs. 88,77,162.60/-. As per Provision of Sec 123(4) of the Act, the amount of Dividend shall be deposited in a Scheduled Bank in a Separate account within 5 days from the date of declaration of such dividend i.e. latest by 02/10/2022. However, due to national holiday on 02/10/2022 bank and company were not working. Therefore, Dividend amount was deposited on 03/10/2022 thus causing default of 1 day.

PENALTY PROVISION FOR VIOLATION OF SECTION 123(4) OF THE ACT:

450. *Punishment where no specific penalty or punishment is provided.*

*If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be [liable to a penalty of ten thousand rupees, and in case of continuing contravention, with a further penalty of one thousand rupees for each day after the first during which the contravention continues, subject to a maximum of two lakh rupees in case of a company and fifty thousand rupees in case of an officer who is in default or any other person]*

FINDINGS:

8. Further, the Company vide letter dated 26/02/2024 requested the undersigned to adjudicate the said default. Further, Mr Ajay Puri, Company Secretary, vide letter dated 27/06/2024 requested to be included as one of the Joint Applicants to the above said Adjudication Application.
9. The Company is required to deposit an amount of Dividend in a Scheduled Bank in a Separate account within 5 days from the date of declaration of such dividend.
10. The Company in its Application has admitted the delay of 1 day in depositing the Amount of Dividend as it deposited the said amount on 03/10/2022 and thereby there is contravention of provision of Sec 123(4) of the Companies Act, 2013.
11. In view of para 8 to 10 supra, the Company and its officers in default are liable for penal provision u/s 450 of the Act. Section 450 of the Act states that *If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be [liable to a penalty of ten thousand rupees, and in case of continuing contravention, with a further penalty of one thousand rupees for each day after the first during which the contravention continues, subject to a maximum of two lakh rupees in case of a company and fifty thousand rupees in case of an officer who is in default or any other person]*. In the present case the Company, SUBBI REDDY



VENKATRAMA PADALA (PAN- AAEP1891N) (CEO-KMP), Satyajeeet Sumanth Bolar and Mr Ajay Puri, Company Secretary (PAN- AHCPP6589N) are liable for penal action u/s 450 of the Act.

ORDER

12. In exercise of the powers conferred on me vide Notification dated 24.03.2015 and having considered the facts and circumstances of the case besides reply of the company after taking into account the factors mentioned in the relevant Rules followed by amendments in section 454(3) of the Companies Act, 2013, I am of the opinion that penalty shall be imposed for the default related to non-compliance of section 123(4) of the Act.

13. Having considered the facts and circumstances of the case and after taking into accounts the above factors, I hereby impose a total penalty of Rs. 11,000/- (Rupees Eleven Thousand only) on the company and its Officers in default each as per the table below for violations of provisions of section 123(4) of the Companies act, 2013.

No. of days of default	Penalty imposed on company/ directors	First default penalty in (Rs.)	Default continues penalty in (Rs.)	Total penalty in (Rs.)	Maximum penalty in (Rs.)	Penalty levied in (Rs.)
1	1. MULTI COMMODITY EXCHANGE OF INDIA LIMITED (COMPANY)	10,000/-	=1 X 1000	=10,000 +1,000 =11,000	2,00,000	11,000
	2. SUBBI REDDY VENKATRAMA PADALA (CEO-KMP)	10,000/-	=1 X 1000	=10,000 +1,000 =11,000	50,000	11,000
	3. SATYAJEET SUMANTH BOLAR (CFO-KMP)	10,000/-	=1 X 1000	=10,000 +1,000 =11,000	50,000	11,000
	4. AJAY PURI, COMPANY SECRETARY	10,000/-	=1 X 1000	=10,000 +1,000 =11,000	50,000	11,000
	TOTAL					44,000

TOTAL PENALTY PAYABLE - Rs. 44,000/-

- (■) The period of violation of provisions under Section 123(4) of the Companies Act, 2013 is from 2<sup>ND</sup> October, 2022 to 3<sup>rd</sup> October, 2022 and delay is 1 day. As per signatory details available on MCA-21 portal, the above-mentioned individuals were Officers in default during the period of violation as follow.
14. The company and its Officers in default/directors are hereby directed to pay the penalty amount as per the table above. In the director's case such amount is required to be paid out of their own funds.
  15. The noticee/s shall pay the said amount of penalty through "Ministry of Corporate Affairs portal" and proof of payment should be produced for verification within 90 days of receipt of this order.
  16. Please note that as per Section 454(8)(i) of the Companies Act, 2013, where Company does not pay the penalty imposed by the Adjudicating Officer or the Regional Director within a period of ninety days from the date of receipt of the copy of the order, the Company shall be punishable with fine which shall not be less than twenty-five thousand rupees, but which may extend to five lakh rupees.
  17. Where an Officer of a Company who is in default does not pay the penalty within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty five thousand rupees but which may extend to one lakh rupees, or with both.
  18. Therefore, in case of default in payment of penalty, prosecution will be filed under Section 454(8)(i) and (ii) of the Companies Act, 2013 at your own costs without any further notice.
  19. Further the company and its officers are hereby direct that the penalty amount shall be remitted from their own sources through MCA 21 ports within 60 days from the date of receipt of order. The company need to file INC-28 as per the provisions of the Act, attaching copy of adjudication order along with payment challans.

20. Appeal if any, against this order may be filed in writing with the Regional Director, Western Regional, Ministry of Corporate Affairs, within a period of sixty days from the date of receipt of this order, in Form ADJ setting forth the grounds of appeal and shall be accompanied by the certified copy of this order. (Section 454 of the Companies Act, 2013 read with the Companies (Adjudication of Penalties) Rules, 2014 as amended by Companies (Adjudication of Penalties) Amendment Rules, 2019.

21. 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 the Company and Noticee/s and also to Office of the Regional Director, Western Region, Ministry of Corporate Affairs.



(B. Mishra)

Adjudication Officer and Registrar of Companies,  
Maharashtra, Mumbai.

OIC

To,

1. MULTI COMMODITY EXCHANGE OF INDIA LIMITED.  
EXCHANGE SQUARE, CHAKALA,  
SUREN ROAD, ANDHERI (EAST),  
MUMBAI, Maharashtra, 400093, India.

\*(In term of provisions of section 20 of Companies Act, 2013, company is required to bring this order to the knowledge of its officers who are in default)

2. SUBBI REDDY VENKATRAMA PADALA  
(CEO-KMP)  
202, MAITRI LILY, MAITRI GARDEN,  
POKHRAN ROAD 2, NEXT TO OSWAL PARK,  
THANE, THANE, 400601, Maharashtra, India.
3. SATYAJEET SUMANTH BOLAR, (CFO-KMP)  
C-501, Neelsidhi Slendour CHS,  
Sector - 15, Belapur,  
Navi Mumbai, 400614,  
Maharashtra, India

4. AJAY PURI, Company Secretary,  
L 4, Block LKailash Colony, South Delhi,  
Delhi,110048, Delhi,India

Copy To: -

THE REGIONAL DIRECTOR (WR)  
Ministry Of Corporate Affairs,  
100, Everest Building, Marine Drive,  
Mumbai.