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भारत सरकार  
GOVERNMENT OF INDIA

कारपोरेट कार्य मंत्रालय  
MINISTRY OF CORPORATE AFFAIRS

कम्पनी पंजीयक का कार्यालय, तमिल नाडु, अंदमान & निकोबार द्वीपपुंज, चेन्नई  
OFFICE OF REGISTRAR OF COMPANIES, TAMIL NADU, ANDAMAN & NICOBAR ISLANDS, CHENNAI  
दूसरा मंजिल, 'सी' विंग, शास्त्री भवन, 26, हाडोस रोड, नुंकमपाक्कम, चेन्नई - 6  
II FLOOR, C- WING, SHASTRI BHAVAN, 26, HADDOWS ROAD, NUNGAMBAKKAM, CHENNAI- 6

F.NO.ROC/CHN/CRYO SCIENTIFIC/ADJ/S.77/2024

DATE:

23 AUG 2024

**ADJUDICATION ORDER UNDER SECTION 77 OF THE COMPANIES ACT, 2013**  
**IN THE MATTER OF M/S CRYO SCIENTIFIC SYSTEMS PRIVATE LIMITED**

1. **Appointment of Adjudicating Officer:-**

Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad.II, dated 24.03.2015 has appointed Registrar of Companies, Chennai as Adjudicating Officer in exercise of the powers conferred by section 454(1) of the Companies Act, 2013 (hereinafter referred as Act or Companies Act, 2013) r/w Companies (Adjudication of Penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

2. **Company: -**

Whereas the company viz M/s. Cryo Scientific Systems Private Limited with CIN: U36999TN1998PTC039872 (herein after referred as 'company' or 'subject company') is a registered company with this office under the Companies Act, 2013 having its registered office as per MCA21 Registry at No.2/268, Rapatd Nagar, Kunrathur, High Road, Gerugambakkam, Chennai, Tamil Nadu 602101. The financial & other details of the subject company as available on MCA-21 portal is stated as under:

| S.No. | Particulars   | Information   |
|-------|---|---|
| 1.    | Company's Status  | Active  |
| 2.    | Filing Status   | Financial Statement: Up to 31.03.2023<br>Annual Return: Up to 31.03.2023. |
| 3.    | Paid up Capital   | Rs.59,83,000/-  |
|       | a. Revenue from Operation                               | Rs.45,761,000/-   |
|       | b. Other Income   | Rs.85,000/-   |
|       | c. Profit/Loss for the Period                           | Rs.389,000/-  |
| 4.    | Whether it is a Holding Company                         | No  |
| 5.    | Whether it is a Subsidiary Company                      | No  |
| 6.    | Whether company registered under Section 8 of the Act?  | No  |
| 7.    | Whether company registered under any other special Act? | No  |

3. Directors during the period of violation:

| S.No. | Name of Director<br>Default | Designation           | Date of<br>Appointment | Date of<br>Cessation |
|-------|-----------------------------|-----------------------|------------------------|----------------------|
| 1.    | Mr.Narayanan                | Wholetime<br>Director | 10.02.1998             | .....                |

4. Section and Penal Provision as per Companies Act, 2013

*Section 77: Duty to Register Charges, etc.*

*(1) It shall be the duty of every company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, and situated in or outside India, to register the particulars of the charge signed by the company and the charge-holder together with the instruments, if any, creating such charge in such form, on payment of such fees and in such manner as may be prescribed, with the Registrar within thirty days of its creation:*

***Section 86. Punishment for Contravention.***

*(1) If any company is in default in complying with any of the provisions of this Chapter, the company shall be liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees.*

**5. Issue of Adjudication Notice:**

An Inquiry was conducted on the affairs of the Company M/s. Cryo Scientific Systems Private Limited under Section 206(4) of the Companies Act, 2013 by an Officer authorized by the Central Government wherein the observations of the Inquiry Officer are as follows:

In note No. 5 of the Balance Sheet for the financial years 2015-16 and 2016-17, a sum of Rs.3,67,500/- and Rs.51,546/- respectively have been shown as Secured loans towards purchase of car and HM Motor Bike, However, no CHG-1 filed with ROC as required under Section 77 of the Companies Act, 2013 regarding registration of creation of Charge on these assets. Hence, provision of Section 77 of the Companies Act, 2013 have been violated.

Accordingly, on submission of the Inquiry report, the Regional Director, Ministry of Corporate Affairs, Chennai has directed to take necessary action against the defaulters as per the provisions of the Companies Act, 2013.

After that the Adjudicating Authority has issued notice to the company and Officers in default vide Notice No. Roc/ Chn.039872/CRYO SCIENTIFIC/S.77/P.2/ADJ/2023 dt 17.04.2024.

**6. Reply of Company and Directors for Adjudication Notice issued:**

The Whole-time Director of the company vide letter dated 02.05.2024 submitted that Charge form need to be signed by the company and the Charge-holder. Hence, the Company cannot file any e-form without such e-form being signed by Charge Holder. Since, the assets were held under hire- purchase system, the owner did not agree to create charge against the assets. Further, the assets were hire purchase and the owner was in position to recover the unpaid loan amount by repossession of asset in case of default in payment and hence it did not agree. Further, since the registration certificate issued under

Motor Vehicle Act also contained hypothecation endorsement, owner Did not agree for creation of Charge. Further, the company had taken all steps and hence it cannot be said to have defaulted. Further, Whole time director also have taken all the efforts and hence, he cannot be held responsible.

7. Adjudication Hearing:

The Adjudicating Authority had issued notice of hearing dt 02.05.2024 by fixing the hearing on 08.05.2024 at 12:45 PM. Pursuant to the notice dt 02.05.2024, Shri.Gouri Shanker Mishra, PCS appeared before the Adjudicating Authority on behalf of the company and Whole- time Director on 08.05.2024 and made submission that the owner did not agree to create charge against the assets and the company had taken all steps ,hence there is no any default on part of the Company or Whole -time Director as alleged. The intent of the company or any of its Officer was never malicious and by not creating the charge the lender or any other party has not resulted in any non-compliance much so violation of the objective of Section 77 of the Companies Act,2013.

8. Analysis of violation of the Companies Act,2013

It is noticed that the company has not filed e-form CHG-1 in connection with registration of Creation of Charge on assets viz. Car and HM Motor Bike during the FY 2015-16, 2016-17 as required under Section 77 of the Companies Act, 2013. Therefore, the company has violated Section 77 of the Companies Act, 2013 and liable for penalty under Section 86 of the Companies Act, 2013.

(ii) Further Section 446 B of the Companies Act, 2013 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”.*

(iii) As per clause 85 of Section 2 of the Companies Act, 2013, *small company means a company whose paid up capital and turn over shall not exceed four crore and rupees forty crore respectively.* As per MCA portal paid up capital of the company is Rs.59 lakhs and turnover are less than Rs.40 Cores as per the MGT 7A filed by the company with this office for the immediately preceding FY i.e. 2021-22. Therefore, the benefits of small company are extended to this company while adjudicating the penalty.

#### 9. Decision

Having considered the facts and circumstances of the case and after taking into account the factors above, it is concluded that the company and Officers in default violated Section 77 of the Companies Act, 2013 by not filing CHG-1 with the Registrar during the FY 2015-16 & 2016-17 and therefore the company and its Officers in default are liable for penalty as prescribed under Section 86(1) of the Companies Act,2013.

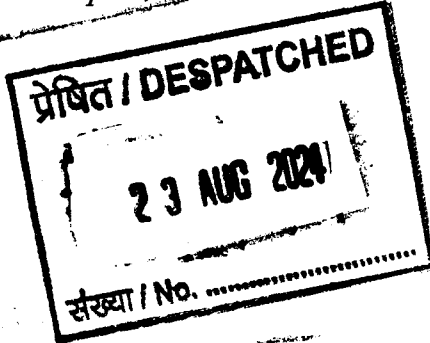
Accordingly, I am inclined to impose a penalty as prescribed under Section 86 of the Companies Act, 2013. The details of the penalty imposed on the Company and Officers in default as follows:

| S.No | Company and Officers in default              | Penalty for default (Rs.) | Maximum Penalty (Rs.) | Final Penalty Imposed (Rs.)- 50 % being Small company U/s. 446 B of CA 2013 |
|------|--|---------------------------|-----------------------|---|
| 1.   | M/s. Cryo Scientific Systems Private Limited | Rs.5,00,000/-             | Rs.5,00,000/-         | Rs.2,00,000/-   |
| 2.   | Mr.Narayanan                                 | Rs.50,000/-               | Rs.50,000/-           | Rs.25,000/-   |

Therefore, in view of the above said violation, in exercise of the powers vested to the undersigned under Section 454(1) & (3) of the Companies Act, 2013 a penalty of Rs.2,00,000/- (Rupees Two lakhs) is imposed on the Company and Rs.25,000/- (Rupees Twenty five thousand) is imposed on each Officers in default. Totally Rs. 2,25,000/- (Rupees Two lakhs Twenty five thousand) as penalty amount for violation of Section 77 of the Companies Act, 2013.

10. The said amount of penalty shall be paid through online by using the website [www.mca.gov.in](http://www.mca.gov.in)(Misc. head) within 90 days of receipt of this order, and intimate this office with proof of penalty paid.
11. Whereas Appeal against this order may be filed with the Regional Director (SR), Ministry of Corporate Affairs, 5th Floor, Shastri Bhavan, 26 Haddows Road, Chennai-600006, Tamil Nadu 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 this order. [Section 454(5) & 454(6) of the Act read with Companies (Adjudicating of Penalties) Rules, 2014].
12. Your attention is also invited to section 454(8) of the Act in the event of non-compliance of this order, *“(8)(i) Where 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 ninety days from the date of the 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.*

(ii) 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 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."



*B. Srikumar*  
(B. Srikumar, ICLS)  
REGISTRAR OF COMPANIES  
TAMILNADU, CHENNAI.  
ADJUDICATING OFFICER

*Ans*  
*19/08/24*

To,

1. F.NO.ROC/CHN/CRYO SCIENTIFIC/ADJ/S.77/2024  
M/s. Cryo Scientific Systems Private Limited  
U36999TN1998PTC039872  
No.2/268, Rapatd Nagar, Kunrathur, High Road, Gerugambakkam,  
Chennai, Tamil Nadu 602101
2. F.NO.ROC/CHN/CRYO SCIENTIFIC/ADJ/S.77/2024  
Shri.Narayanan (DIN: 1661052)  
7-C,Daffodil Ceebros Gardens, Vembuliamman Koil Street  
Chennai, Tamil Nadu 600092

Copy To

1. The Regional Director (SR)  
Chennai ..... for information