

F.No:9/35/ADJ/SEC.134 of 2013/KARNATAKA/RD(SER)/2023

16537

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF MUTHOOTTU MINI NIDHI LIMITED

1. M/s. Muthoottu Mini Nidhi Limited
2. Mr. Roy Mathew, Director
3. Ms. Nizzy Mathew, Former Director
4. Mr. Mathew Muthoottu, Director
5. Ms. Saramma Mammen Mathai, Director

Appellants

Date of hearing: 04.01.2024

Present : Mr. Hari Babu Pothapu, PCS

ORDER

This is an appeal filed under section 454(5) of the Companies Act, 2013 by the above appellants in e-form ADJ vide SRN F85171767 dated 28.11.2023 against the adjudication order No. ROC(B)/Adj.Order/454-134/Muthoottu/Co.No.10837/2023 dated 09.11.2023 under section 454 passed by the Registrar of Companies, Karnataka for default in compliance with the requirements of Section 134 of the Companies, Act, 2013.

2. Registrar of Companies in his order of adjudication has stated that the following non-compliances have been observed in the notices issued to the company and directors:

(a) For the years 2016-17 and 2018-19 the company has failed to attach form AOC-2 to the Director's Report as required under section 134(3)(h) of the Act.

(b) For the years 2016-17, 2017-18 and 2018-19, the company did not disclose the details of deposit collected in the Director's Report as required under section 134(3)(q) of the Act r/w Rule 8(5)(v) of the Companies (Accounts) Rules, 2014. Further, the company did not disclose in its Board Report for the year 2016-17, 2017-18 and 2018-19 a statement on compliance of Secretarial Standard 1 & 2 as required under section 134 r/w section 118(10) of the Act.



Contd..2.

(c) The Board's Report and annexure (MGT-9) for the year 2016-17, 2017-18 and 2018-19 has been signed by only one director viz. Ms. Nizzy Mathew wherein it had to be signed by two directors as Ms. Nizzy Mathew is not the chairman of the company, as required under section 134(6) of the Act.

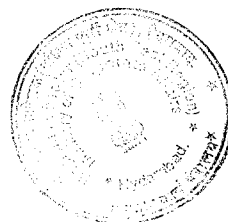
Further stated that hearing was held before Registrar of Companies on 26.09.2023 and after hearing the authorized representative had levied a penalty for the financial years 2016-17, 2017-18 and 2018-19 for Company amounting to Rs.9,00,000/- and for 3 officers i.e., Ms. Nizzy Mathew (Director), Mr. Roy Mathew (Director) and Ms. Saramma Mammen Mathai (Director) amounting to Rs.1,50,000/- each and for Mr. Mathew Muthoottu (Director) to Rs.50,000/- (total aggregating to Rs.14,00,000/-).

3. An opportunity of being heard was given to the Appellants on 04.01.2024. The authorized representative Mr. Hari Babu Pothapu, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and the following has been stated in the appeal:

(a) The offences committed by the company were not serious offences even though there is misstatement in the Directors Report which would not, in any manner adversely affect the interest of the stakeholders. Further the company is a Nidhi company formed with the object of cultivating the habit of thrift and saving amongst its members, receiving deposits from, and lending to, its members only, for their benefit. The nature of the Company is more of a social motive than the profit motive and the growth of the company is also restricted under the Companies (Nidhi) Rules, 2014.

(b) The company is not adequately profitable and is barely able to make ends meet. The management has not earned a dingle penny from the operation of the Company during the past years. Levy of such quantum of penalty at this stage will cast unbearable burden on the Management.

(c) The default is neither willful nor wanton and it is purely unintentional, and it is further submitted that the default due to administrative lapse and is not of such nature as will prejudice the interests of members or creditors or other parties dealing with the company.



Contd..3.

4. Though there is a default committed, there is a ground in interfering with the impugned adjudication order of Registrar of Companies based on the following grounds:

(a) the offences committed by the company were not serious offences even though there is misstatement in the Directors Report which would not, in any manner adversely affect the interest of the stakeholders.

(b) the company is a Nidhi company formed with the object of cultivating the habit of thrift and saving amongst its members, receiving deposits from, and lending to, its members only, for their benefit.

(c) the nature of the Company is more of a social motive than the profit motive and the growth of the company is also restricted under the Companies (Nidhi) Rules, 2014.

(d) The company is not adequately profitable and is barely able to make ends meet. The management has not earned a dingle penny from the operation of the Company during the past years.

(e) The default is neither willful nor wanton and it is purely unintentional, and it is further submitted that the default due to administrative lapse and is not of such nature as will prejudice the interests of members or creditors or other parties dealing with the company.

Hence, taking into consideration the facts of the appeal and submissions made by the authorized representative. I deem it would meet the end of justice if the penalty imposed by Registrar of Companies is reduced to Rs.1,80,000/- for the financial years 2016-17, 2017-18 & 2018-19 i.e., for Company amounting to and for 3 officers i.e., Ms. Nizzy Mathew (Director), Mr. Roy Mathew (Director) and Ms. Saramma Mammen Mathai (Director) amounting to Rs.30,000/- each and for Mr. Mathew Muthoottu (Director) to Rs.10,000/- (total aggregating to Rs.2,80,000/-). The appellants are directed to comply with this order and also provisions of Section 454(8) of the Companies Act, 2013 read with Companies (Adjudication of Penalties) Rules, 2014.



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5. Accordingly, penalty was paid for the financial years 2016-17, 2017-18 and 2018-19 by the Company amounting to Rs.1,80,000/- and by 3 officers i.e., Ms. Nizzy Mathew (Director), Mr. Roy Mathew (Director) and Ms. Saramma Mammen Mathai (Director) amounting to Rs.30,000/- each and by Mr. Mathew Muthoottu (Director) to Rs.10,000/- (total aggregating to Rs.2,80,000/-) vide SRN's X64034937, X64034747, X64035207, X64036262 and X64034580 dated 09.01.2024 respectively. Accordingly, this order is issued to the Appellants with a copy to Registrar of Companies, Karnataka and Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi for information and necessary action.

Issued under my hand and seal on this the 01st day of February 2024.



(DR. RAJ SINGH)
REGIONAL DIRECTOR (SER)
HYDERABAD

Copy for information and necessary action to :

1. M/s. Muthoottu Mini Nidhi Limited
No.102, 1st Floor Copper Arch 83, Infantry
Road, Bangalore, Karnataka- 560001.
2. Roy Mathew, Director
At Muthoottu House, Kozhenchery,
Pathanamthitta, Kerala- 689641.
3. Nizzy Mathew, Former Director
At Muthoottu House, Kozhenchery,
Pathanamthitta, Kerala- 689641.
4. Mathew Muthoottu, Director
At Muthoottu House, Kozhenchery,
Pathanamthitta, Kerala- 689641.
5. Saramma Mammen, Former Director
At Lake Shore Homes, Kasavanahalli, Richmond Town
South Carmelaram, Bangalore, Karnataka- 560035.
6. Registrar of Companies, Ministry of Corporate Affairs,
Karnataka, Bangalore.
7. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.