

F.No:9/110/ADJ/SEC.203 of 2013/ANDHRA PRADESH/RD(SER)/2022 /4149

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF HUES GRANITES PRIVATE LIMITED

1. M/s. Hues Granites Private Limited
2. Koya Harishu, Director
3. Koya Prasada Rao, Director

Appellants

Date of hearing : 08.02.2023

Present : Mr. P Srikant Kumar, 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 F41843772 dated 09.11.2022 against the adjudication order No. ROC(V)/ADJ (454)/SEC 203(5)/HUES/2022-23/1971 dated 07.09.2022 under section 454 passed by the Registrar of Companies, Andhra Pradesh for default in compliance with the requirements of Section 203 read with Rule 8A of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014.

2. Registrar of Companies in his order of adjudication has stated that the company has failed to appoint Company Secretary since the applicable provisions of the Act came into force to till date despite paid up capital has exceeded the prescribed limit as stated in the provisions of Section 203(1) of the Companies Act, 2013. Hearing was held before Registrar of Companies on 07.09.2022 and after hearing the authorized representative had levied a penalty of Rs.5.00 Lakhs on the Company and Rs.50,000/- each for 4 officers i.e., Srinivasa Rao Garlapati, Managing Director, Koya Harishu, Koritela Veeraiah and Koya Prasada Rao, Directors (total aggregating to Rs.7.00 Lakhs).



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3. An opportunity of being heard was given by the then Regional Director to the Appellants on 08.02.2023. The authorized representative Mr. P. Srikant Kumar, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted that the Company is having a Managing Director and he has already paid the penalty along with another director in compliance of the adjudication order passed by Registrar of Companies dated 07.09.2022 for Mr. Srinivasarao Garlapati, Managing Director and Mr. Koritela Veeraiah, Director vide SRN X27282078 & X27283688 dated 07.11.2022. Further it is submitted that there is no delay in filing on the company has received their order belatedly i.e., on 22.09.2022 and made the appeal application on 09.11.2022 with the prescribed time. Despite all these conditions the Company has appointed Narayan Lal Paliwal as Whole-Time Company Secretary of the Company with effect from 01.07.2022 and complied with the provisions of Section 203 of the Companies Act, 2013 and requested to reduce the quantum of penalty as levied by Registrar of Companies with regard to Company and also to waive off the penalty as imposed for 2 directors i.e., Koya Harishu and Koya Prasada Rao.

4. Though there is a default committed, there is a ground in interfering with the impugned adjudication order of Registrar of Companies to the extent of reducing the quantum of penalty due to the following reasons:.

(a) company is private limited and there is no injury to the public interest

(b) Registrar of Companies have not taken into consideration the facts that the Company is having a Managing Director, hence other non-executive director should not have been penalized.

Taking into consideration the facts of the appeal and submissions made by the authorized representative. As the company is having a Managing Director and he is the person to see the day-to-day activity in including the appointment of a Whole-Time Company Secretary, other director should not have been charged by Registrar



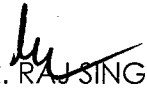
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of Companies. However it could not be explained when Managing Director has made the payment of penalty, why the application is made for the company. The replies are not convincing and hence no need of interfering in the order of directing the Company to pay the penalty as already imposed by Registrar of Companies for an amount of Rs.5,00,000/-. However, other non-executive directors i.e. Mr. Koya Harishu & Koya Prasad Rao, Directors who are applicant herein and not to be charged and the penalty as imposed by the Registrar of Companies is waved off. The appellant is 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. The then Regional Director ordered accordingly.

5. Accordingly, penalty was paid by the Company amounting to Rs.5,00,000/- vide SRN's X40850091 dated 22.04.2023. Accordingly, this order is issued to the Appellant with a copy to Registrar of Companies, Andhra Pradesh 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 27th day of September 2023.




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

Copy for information and necessary action

1. M/s. Hues Granites Private Limited
Plot No.304, Classic Towers, Rajendra Nagar,
1st Lane, Guntur, Krishna, Andhra Pradesh- 522006
2. Mr. Koya Harishu, Director
Plot No.304, Classic Towers, Rajendra Nagar,
1st Line, Guntur, Andhra Pradesh- 522006
3. Mr. Koya Prasad Rao, Director
D.No. 3-28-18/96, Plot No.304, Classic Towers,
Rajendra Nagar, 1st Line, Guntur, Andhra Pradesh- 522006.
4. Registrar of Companies, Ministry of Corporate Affairs,
Andhra Pradesh, Vijayawada.
5. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.