

F.No:9/105/ADJ/SEC.203/2013/ANDHRA PRADESH/RD(SER)/2022 /4959

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF ABEERA BEVERAGES PRIVATE LIMITED

1. M/s. Abeera Beverages Private Limited
2. Chandrasekhara Rao Valluru, Whole-time Director
3. Abishek Valluru, Director

Appellants

Date of hearing: 01.08.2023

Present : Mr. J Basava Raja, Advocate

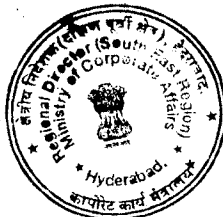
ORDER

This is an appeal filed under section 454(5) of the Companies Act, 2013 by the above appellants in e-form ADJ vide SRN F40392649 dated 05.11.2022 against the adjudication order No. ADJ 90/203 of 2022-23/1933 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(1) 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 fill 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 3 directors i.e., Chandrasekhara Rao Valluru, Whole-time Director, Sankaraiah Peram, Director and Abishek Valluru, Director (total aggregating to Rs.6.50 Lakhs).

3. An opportunity of being heard was given to the Appellants on 01.08.2023. The authorized representative Mr. J Basava Raja, Advocate appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted

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that because the consequences for non-compliance of the timeline stipulated for filing e form (INC-28) will have huge financial bearing on the company as the company incurred losses to the extent of Rs.2,46,11,700/- as on 31.03.2022 and due to delay in obtaining various approvals/clearances from various authorities, the appellants are facing hardship in complying to the provisions of section 203(1) of Companies Act, 2013 by filing relevant form and requested to reduce the quantum of penalty as levied by Registrar of Companies with regard to Company and Officers.

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) The company has not started production.
- (b) Company is loss making
- (c) One director Mr. P. Sankaraiah Peram is an independent director.

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 for the Company to Rs.1,00,000/- and for 2 officers i.e., Mr. Chandrasekhara Rao Valluru, Whole-time Director and Abishek Valluru, Director to Rs.10,000/- each (total aggregating to Rs.1,20,000/-) and setting aside the penalty imposed for independent director i.e., Mr. P. Sankaraiah Peram. 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.

5. The, penalty was paid by the Company amounting to Rs.1,00,000/- and by 2 officers i.e., Mr. Chandrasekhara Rao Valluru, Whole-time Director and Abishek Valluru, Director to Rs.10,000/- each (total aggregating to Rs.1,20,000/-) vide SRN's X49969777, X49968936 and X49969165 dated 14.08.2023 respectively. Accordingly, this




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order issued to the Appellants 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. RAJ SINGH)
REGIONAL DIRECTOR (SER)
HYDERABAD

Copy for information and necessary action to:

1. M/s. Abeera Beverages Private Limited
40-25-36/2, Parchuri Street, Patamatalanka
Vijayawada, Krishna, Andhra Pradesh- 520010
2. Chandra Sekhara Rao Valluru, Whole-time Director
40-7-6, Parchuri Street, Patamatalanka
Vijayawada, Krishna, Andhra Pradesh- 520010.
3. Abishek Valluru, Director
40-25-36/2, Parchuri Street, Patamatalanka
Vijayawada, Krishna, Andhra Pradesh- 520010
4. Registrar of Companies, Ministry of Corporate Affairs,
Andhra Pradesh, Vijayawada.
5. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.


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