

F.No:9/21/ADJ/SEC.168/2013/ANDHRA PRADESH/RD(SER)/2023/3351

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF CETC RENEWABLE ENERGY TECHNOLOGY (INDIA) PRIVATE LIMITED

1. M/s. CETC Renewable Energy Technology (India) Private Limited
2. Mr. Mr. Qian Cao, Director
3. Mr. Daliang Zhou, Director
4. Mr. Xin Xiao, Director

Appellants

Date of hearing: 10.08.2023

Present : Mr. K Dushyantha 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 F62716626 dated 27.07.2023 against the adjudication order No. ADJ 4 of 2022-23/333-338 dated 24.07.2023 under section 454 passed by the Registrar of Companies, Andhra Pradesh for default in compliance with the requirements of Section 168 of the Companies Act, 2013.

2. Registrar of Companies in his order of adjudication has stated that during the course of Inquiry, it is observed that the Company had failed to intimate the Registrar of Companies about the resignation of Mr. Chandra Kuduri from the Directorship of the Company in e-Form DIR-12 within 30 days from the date of resignation and the due date of filing of e-form DIR-12 was 29.05.2021. However, the e-form DIR-12 for resignation of Mr. Chandra Kuduri from the Directorship of the Company was filed on 12.06.2021 and there was a delay in filing of the e-form DIR-12 by 14 days. Hearing was held before Registrar of Companies on 24.07.2023 and after hearing the authorized representative had levied a penalty of Rs.57,000/- each on the Company and for 3 directors i.e., Mr. Qian Cao, Mr. Daliang Zhou and Mr. Xin Xiao (total aggregating to Rs.2, 28,000).



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3. An opportunity of being heard was given to the Appellants on 10.08.2023. The authorized representative Mr. K Dushyantha Kumar, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted that there was a lock down due to pandemic and the company could not file e-form DIR-12 within the due date. It is further submitted that the Ministry of Corporate Affairs vide General Circular No.06/2021 issued on 03.05.2021 provided relaxation of time for filing of certain e-forms.

Further, stated that company is a private limited and there is no injury to the public interest. The Company and its officers in defaulted violation of Section 172 for the first time. The Company has reported loss of Rs.23,60,70,212/- as per its latest profit & loss account as on 31.03.2022. Despite all these conditions the Company has filed e-Form DIR-12 for resignation of Director on 12.06.2021, there is a contravention under section 172 of the Companies Act, 2013 for the defaulting period i.e., 29.05.2021 to 12.06.2021 and complied with the provisions of Section 454 of the Companies Act, 2013 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) Company was not in commercial production at the time of default in appointment of Company Secretary.

(b) Company is private limited company and there is no injury to public interest.

(c) The Company has reported loss of Rs.23,60,70,212/- as per its latest profit & loss account as on 31.03.2022.

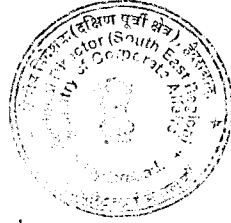
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Taking into consideration the facts of the appeal and submissions made by the authorized representative. I deem it would meet the end of justice if the penalty imposed by Registrar of Companies is reduced for the Company and for 3 officers i.e., Mr. Qian Cao, Mr. Daliang Zhou and Mr. Xin Xiao to Rs.50,000/- each (total aggregating to Rs.2,00,000/-). 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.

5. Accordingly, penalty was paid by the Company and by 3 officers i.e., Mr. Qian Cao, Mr. Daliang Zhou and Mr. Xin Xiao amounting to Rs.50,000/- each (total aggregating to Rs.2,00,000/-) vide SRN's X49686801, X49686595, X49688286 and X49688351 dated 11.08.2023 respectively. Accordingly, this order is 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 22nd day of August 2023.




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

Copy for information and necessary action to :

1. M/s. CETC Renewable Energy Technology (India) Private Limited,
No 250, Thespia Drive Sricity dtz, Gollavaripalem, satyavedu
Sricity, Chittoor, Andhra Pradesh- 517646.
2. Mr. Qian Cao, Director
C/o. CETC Renewable Energy Technology (India) Private Limited,
No 250, Thespia Drive Sricity dtz, Gollavaripalem,
satyavedu Sricity, Chittoor, Andhra Pradesh- 517646.
3. Mr. Daliang Zhou, Director
C/o. CETC Renewable Energy Technology (India) Private Limited,
No 250, Thespia Drive Sricity dtz, Gollavaripalem,
satyavedu Sricity, Chittoor, Andhra Pradesh- 517646.

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4. Mr. Xin Xiao, Director
C/o. CETC Renewable Energy Technology (India) Private Limited,
No 250, Thespia Drive Sricity dtz, Gollavaripalem,
satyavedu Sricity, Chittoor, Andhra Pradesh- 517646.
5. Registrar of Companies, Ministry of Corporate Affairs,
Andhra Pradesh, Vijayawada.
6. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.