

F.No:9/15/ADJ/SEC.10A OF 2013/KARNATAKA/RD(SER)/2023 / 3298

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

**IN THE MATTER OF VENA ENERGY SUSTAINABLE POWER PRIVATE LIMITED**

1. M/s. Vena Energy Sustainable Power Private Limited
2. Mr. Rohit Loyalka, Director
3. Mr. Ashish Tiwari, Director
4. Mr. Geno Jose Thomas, Director
5. Mr. Mohanram Ramakrishnan Musuwathy, Director

Appellants

Date of hearing: 18.07.2023

Present : Ms. Varsha V Shenoy, PCS

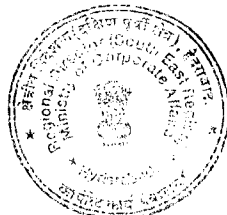
**ORDER**

This is an appeal filed under section 454(5) of the Companies Act, 2013 by the above appellants in e-form ADJ vide SRN F61745352 dated 06.06.2023 against the adjudication order No. ROC(B)/Adj.Order.454-10A/VESPPL/Co.No.133287/2023/151 dated 11.04.2023 under section 454 passed by the Registrar of Companies, Karnataka for default in compliance with the Section 10A of the Companies Act, 2013.

2. Registrar of Companies in his order of adjudication has stated that the company has filed an adjudication application on 23.12.2023 stating the facts that it was incorporated on 12.03.2020 and ought to have filed INC-20A e-form by 06.03.2021. However, the said form was filed by the company on 17.01.2023 i.e., with a delay of 316 days. Hearing was held before Registrar of Companies on 11.04.2023 and after hearing the authorized representative had levied a penalty of Rs.0.50 Lakhs on the Company and Rs.1.00 Lakhs each for 2 directors i.e., Mr. Rohit Loyalka and Mr. Ashish Tiwari and Rs.0.84 Lakhs on Mr. Geno Jose Thomas, Director and Rs.0.17 Lakhs on Mr. Mohanram Ramakrishnan M, Director (total aggregating to Rs.3.51 Lakhs).

3. An opportunity of being heard was given to the Appellants on 18.07.2023. The authorized representative Ms. Varsha V Shenoy, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the

Contd..2.



appeal and also submitted that the declaration is filed by a director within period of one Hundred and eighty days of the date of incorporation of the Company in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and

Pursuant to MCA General Circular No.11/2020, an additional period of 180 days was granted to the newly incorporated companies for filing a declaration for Certificate of commencement of business with Registrar as per the provisions of Section 10A(1) of the Companies Act, 2013, Thus the company effectively has a total of 360 days to comply with the provisions of Section 10A(1) of the Act.

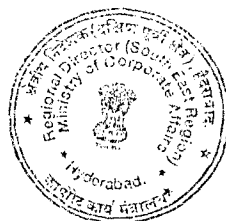
As per Section 10A(2) of the Companies Act, 2013, if any default is made in complying with the requirements of this section, the company shall be liable to a penalty of fifty thousand rupees and every officer who is in default shall be liable to penalty of one thousand rupees for each day during which such default continues but not exceeding an amount of one lakh rupees.

4. The Company has filed an adjudication application on 23.12.2022 stating the facts that it was incorporated on 12.03.2020 and ought to have filed INC-20A e-form by 06.03.2021. However, the said form was filed by the company on 17.01.2022 i.e., with a delay of 316 days and requested to reduce the quantum of penalty as levied by Registrar of Companies with regards to Company and officers.

5. 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) That the company has duly complied with the requirements of filing of the FDI Approval as per the PN3 in a timely manner much before the Due Date.

(b) The FDI Approval was supposed to be provided by the concerned Ministry within the Due Date as per the timelines prescribed in the SOP, however for reasons not attributable to the Company the FDI Approval was received from MNRE only on



01.12.2021, i.e., beyond the Due Date and nearly after a year after filing of the FDI Approval.

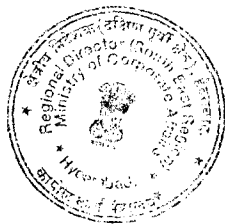
(c) That the Company respectfully submits that the delay in filing of Form INC-20A was without any mala fide/ willful intentions on the part of the Company and the Directors.

(d) That the delay in bringing in the initial share capital was beyond the control of the Directors and the Company due to issues of PN3 and the processing time for FDI application and that the adjudication application to rectify such delay was filed suo moto by the Applicants.

(e) The company has complied with the requirement of filing of Form INC 20A before the commencement of any business activities.

Further it is observed that the company is a Private Limited Company and the Income of the company for the financial year 31.03.2021 and 31.03.2022 is NIL and there was a loss for the said two financial years.

Taking into consideration the facts of the appeal and submissions made by the authorized representative, penalty amount is reduced to 30% of the penalty imposed by the ROC vide order dated 11.04.2023 thereby. The penalty imposed on the company is reduced to Rs.15,000/- and for 2 officers i.e., Mr. Rohit Loyalka, Director and Mr. Ashish Tiwari, Director to Rs.30,000/- each and for Mr. Geno Jose Thomas to Rs.25,200/- and for Mr. Mohanram Ramakrishnan Musuwathy to Rs.5,100/- (total aggregating to Rs.1,05,300/-). 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.

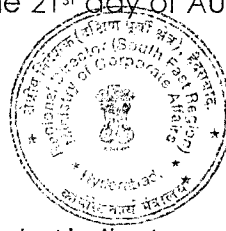


Contd..4.

// 04 //

6. Accordingly, penalty was paid by the Company amounting to Rs.15,000/- and by 2 officers i.e., Mr. Rohit Loyalka, Director and Mr. Ashish Tiwari, Director to Rs.30,000/- each and by Mr. Geno Jose Thomas to Rs.25,200/- and by Mr. Mohanram Ramakrishnan Musuwathy to Rs.5,100/- (total aggregating to Rs.1,05,300/-) vide SRN's X47919485, X48052864, X48517007, X48169494 and X48518179 dated 25.07.2023, 27.07.2023, 28.07.2023 & 31.07.2023 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 21<sup>st</sup> day of August 2023.



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

1. M/s. Vena Energy Sustainable Power Private Limited  
2/1, First Floor, Embassy Icon Annexe  
Infantry Road, Bangalore, Karnataka- 560001.
2. Mr. Rohit Loyalka, Director  
Flat No.4192, Prestige Song of South, Begur  
Main Road, Yelenahalli, Bangalore, Karnataka- 560068
3. Mr. Ashish Tiwari, Director  
F-10/1:1, Shantivan CHS, Section 7, Sanpada  
Navi, Mumbai, Maharashtra- 400705.
4. Mr. Geno Jose Thomas, Director  
#9, Old No.14, North Road, Opp Services School,  
St. Thomas Town, Bangalore, Karnataka- 560084.
5. Mr. Mohanram Ramakrishna Musuwathy, Director  
5FA, Jain Alpine Meadows, Temple Town Road,  
Mahalakshmi CBSE School, Tiruneermalai,  
Kancheepuram- 600044.
6. Registrar of Companies, Ministry of Corporate Affairs,  
Karnataka, Bangalore.
7. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.