

F.No:9/67/ADJ/SEC.203/2013/ANDHRA PRADESH/RD(SER)/2022/1396

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF RAYCHAND AUTOMOBILES PRIVATE LIMITED

1. M/s. Raychand Automobiles Private Limited
2. Avnash Anumolu, Director
3. Ammaji Anumolu, Director
4. Harshitha Anumolu, Director

Appellants

Date of hearing : 15.11.2022
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 F28317964 dated 10.10.2022 against the adjudication order No. ROC(V)/ADJ(454)/SEC203(5)/AWPL/2022/1382 dated 18.08.2022 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 Whole Time Company Secretary after the cessation of the previous Company Secretary on 29.11.2021. Hearing was held before Registrar of Companies on 18.08.2022 and after hearing the authorized representative had levied a penalty of Rs.5.00 Lakhs each on the Company, Avnash Anumolu, Ammaji Anumolu, and Harshitha Anumolu, Directors (total aggregating to Rs.20.00 Lakhs).

3. An opportunity of being heard was given to the Appellants on 15.11.2022. The authorized representative Mr. P. Srikant Kumar, Practicing Company Secretary appeared on behalf of the appellants and reiterated the facts made in the appeal

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and also submitted that Company is having accumulated losses and passed very bad time for the Covid-19 pandemic. The company tried its best to find suitable candidates for the position and contacted a couple of Practicing Company Secretaries in the city. However, owing to the scarcity of qualified Company Secretaries in and around Visakhapatnam, the Company could not appoint one until August, 2022. Also after the pandemic caused by Covid-19, the Company faced various challenges. Consequently, the professionals who have consented for relocation to remote area demand a higher pay scale which was not feasible for an average profitability company to fulfill considering the present scenarios. Despite all these conditions the Company has appointed Reetu Bansal as Company Secretary of the Company with effect from 01.09.2022 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.

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) due to Covid-19 pandemic, Company was unable to appoint Whole Time Company Secretary as none shown interest despite company's effort during that period.

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

(c) imposing maximum penalty by the Registrar of Companies on the company, its Managing Director and other director is very harsh, burdensome on the Company.

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.1,11,560/- and for three directors i.e., Mr.Avnash Anumolu, Mr. Ammaji Anumolu and Mrs. Harshitha Anumolu to Rs.51,560/- each (total aggregating to Rs.2,66,240/-). The appellants are directed to comply with this order 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 by the Company amounting to Rs.1,11,560/- and for three directors i.e., Mr.Avnash Anumolu, Mr. Ammaji Anumolu and Mrs. Harshitha Anumolu to Rs.51,560/- each (total aggregating to Rs.2,66,240/-) vide SRN's X30132666, X30205025, X30291116 and X38818274 dated 12.12.2022, 13.12.2022, 14.12.2022 and 24.03.2023 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 27th day of May 2023.

M/s. Raychand Automobiles Private Limited,
No.11-8-34/1, Dasapalla Hills, Vishakhapatnam,
Andhra Pradesh- 530003.



B. Mohanty
(B. MOHANTY)
REGIONAL DIRECTOR(SER)
HYDERABAD

Copy for information and necessary action to :

1. M Mr. Avnash Anumolu, Director
Anmol, 11-8-34, Road No.3, Daspalla Hills,
Visakhapatnam, Andhra Pradesh- 530003.
2. Mr. Ammaji Anumolu, Director
D.No.11-8-34, Daspalla Hills, Visakhapatnam (Urban),
Visakhapatnam, Andhra Pradesh- 530003.
3. Mrs. Harshitha Anumolu, Director
D.No.11-8-34, Daspalla Hills, Visakhapatnam (Urban),
Visakhapatnam, Andhra Pradesh- 530003.
4. Registrar of Companies, Ministry of Corporate Affairs,
Andhra Pradesh, Vijayawada.
5. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.

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(B. MOHANTY)
REGIONAL DIRECTOR(SER)
HYDERABAD