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F.No:9/74/ADJ/SEC.203/2013/ANDHRA PRADESH /RD(SER)/2022
BEFORE THE REGIONAL DIRECTOR, SOUTHEAST REGION
MINISTRY OF CORPORATE AFFAIRS, HYDERABAD
IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF SUMMIT FOOTWEAR INDIA LIMITED

1. M/s. Summit Footwear India Limited
2. Chen Ching Lang, Director
3. Chia Wei Huang, Director

Appellants

Date of hearing : 15-02-2023
Present : CS Anjaneyulu Challa, 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 F29712544 dated 14-10-2022 against the adjudication order No. ROC(V)/ADJ(454)Sec.203(5)/SFIPL/2022/1472 dated 17.08.2022 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 since incorporation to till date despite paid up capital exceeded the prescribed limit as stated in the provisions of Companies Act, 2013. Hearing was held before Registrar of Companies on 17.08.2022 and after hearing the authorized representative had levied a penalty of Rs. 5,00,000/- on the Company and Rs.3,32,000/- each for 2 directors i.e., Chen Ching Lang And Chia Wei Huang (total aggregating to Rs.11,64,000/-).

3. An opportunity of being heard was given to the Appellants on 15-02-2023. The authorized representative CS Anjaneyulu Challa, PCS appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted that

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company was incorporated on 09.11.2021 and adjudication order was passed by Registrar of Companies, Andhra Pradesh on 17.08.2022. Company is having only two shareholders and the company has not yet started its production. Last Balance Sheet filed for the year ending 31.03.2022 showing nil revenue from operations and a loss of Rs.67.00 Lakhs. Despite all these conditions the Company has appointed Aneri Pankaj Shah as Company Secretary of the Company with effect from 17.10.2022 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. 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) Company is having only two shareholders and the company has not yet started its production.

(d) Last Balance Sheet filed for the year ending 31.03.2022 showing nil revenue from operations and a loss of Rs.67.00 Lakhs

(e) Registrar of Companies passed the adjudication order in a manner without taking into consideration any of the above facts as evident from his order dated 17.08.2022

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 director i.e., Chen Ching Lang And Chia Wei Huang to Rs.50,000/- each (total aggregating to Rs. 2,00,000/-). 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. 1,00,000/- and for 2 director i.e. Chen Ching Lang And Chia Wei Huang amounting to Rs.50,000/- each (total aggregating to Rs. 2.00 lakh/-) vide SRN's X36751006, X36748721 and X36753762 dated 27.02.2023 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. Summit Footwear India Limited
R. No. 16, KAC Plaza, R. R. Street, Nellore,
Nellore District, Andhra Pradesh-524001



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

Copy for information and necessary action to :

1. Chen Ching Lang, Director
Mambattu village Tadamandal Nellore District, Andhra Pradesh India-524401
2. Chia Wei Huang, Director
Mambattu village Tadamandal Nellore District, Andhra Pradesh India-524401

sd/-
(B. MOHANTY)
REGIONAL DIRECTOR (SER)
HYDERABAD