

F.No:9/100/ADJ/SEC.203/2013/ANDHRA PRADESH /RD(SER)/2022 /1463

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF AMODA SPINTEX LIMITED

1. M/s. Amoda Spintex Limited
2. Mr. Kondal Upputhula Rao, Managing Director

Appellants

Date of hearing : 07.02.2023
Present : Mr. Anadish Srivatsava, 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 F39794417 dated 03.11.2022 against the adjudication order No. ROC(V)/ADJ(454)/Sec.203(5)/ASL/2022/1418 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 the applicable provisions of the act came into force i.e., on 02.11.2018 to till date despite paid-up capital has exceeded the prescribed limit as stated in the provisions of Section 203(1) of the Company 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/- each on the Company and for Kandal Upputhula Rao, Managing Director Krishnamacha Ryulu Chilakamarri and Bharat Raj Uppatolla, Directors (total aggregating to Rs.20,00,000/-).



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3. An opportunity of being heard was given to the Appellants on 17.03.2023. The authorized representative Mr. Anadish Srivatsava, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted that Company has been incurring losses since the year 2019. During the last financial year and current financial year, the condition of the Textile Industry in particular reference to spinning mills, is very bad and most of the spinning mills have suffered losses. The entire spinning industry in the State of Andhra Pradesh suffered losses due to steep increase in cotton prices and cost of production with no proportionate increase in market prices of finished product i.e. cotton yarn. With the continuing losses suffered by the company, the working capital funds and the capital were eroded and the unit remained shut down from the month of June 2022. The loan account with the bank has turned NPS since November 2019. Registered office of the company and the unit were located in a rural area i.e. Ravikampadu village, Jaggayyapet Mandal, NTR District, Andhra Pradesh. The Company could not get any applications from the Company Secretaries evincing interest to take up assignment. Company is having Managing Director and day to day affairs and operations of the Company are solely assigned to the Managing Director of the Company. Despite all these conditions the Company vide its Board of Directors Meeting held on 20.12.2022 has appointed Mr. Anadish Srivastava as Company Secretary of the Company with effect from 20.12.2022 and requested to reduce the quantum of penalty as levied by Registrar of Companies with regard to Company, Kandal Upputhula Rao, Managing Director and also to waive off the penalty as imposed for the other directors.

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 has been incurring losses since the year 2019



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(c) The entire spinning industry in the State of Andhra Pradesh suffered losses due to steep increase in cotton prices and cost of production with no proportionate increase in market prices of finished product i.e. cotton yarn.

(d) With the continuing losses suffered by the company, the working capital funds and the capital were eroded and the unit remained shut down from the month of June 2022

(e) Registered office of the company and the unit were located in a rural area i.e. Ravikampadu village, Jaggayapet Mandal, Andhra Pradesh

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

(g) Registrar of Companies has not taken into consideration the facts that the Company is having a Managing Director, hence other non-executive director should not have been penalized.

(h) 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 Kandal Upputhula Rao, Managing Director to Rs.50,000/- (total aggregating to Rs.1,50,000/-) and waived off the penalty on the other Directors as imposed by the Registrar of Companies as the Company is having a Managing Director who looks after the job of day-to-day activities. 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.

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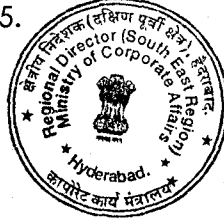


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5. Accordingly, penalty was paid by the Company amounting to Rs.1,00,000/- and Kandal Upputhula Rao, Managing Director to Rs.50,000/- (total aggregating to Rs.1,50,000/-) vide SRN X38315818 dated 18.03.2023 respectively. Accordingly, this order is 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 29th day of May 2023.

✓ M/s. Amoda Spintex Limited
Ravikalapadu Village, Jaggayyapet Mandal,
Jaggayyapet, Andhra Pradesh-521175.



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

Copy for information and necessary action to :

1. Kandal Upputhula Rao, Managing Director,
H.No.1-7-82, Chaitanyapuri, Road No.6,
Kothapet, Saroornagar, Ranga Reddy,
Telangana-500 060.
2. Registrar of Companies, Ministry of Corporate Affairs,
Andhra Pradesh, Vijayawada.
3. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.

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