

F.No:9(120)/ADJ/SEC.203/2013/ANDHRA PRADESH /RD(SER)/2022

11258

BEFORE THE REGIONAL DIRECTOR, SOUTHEAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF SAI ACHYUTH ENERGY PRIVATE LIMITED & OTHER APPELLANTS

1. M/s. SAI ACHYUTH ENERGY PRIVATE LIMITED
2. KRISHNA MURTHY ARAVAPALLI, Director
3. RANGA RAO GUDDANTI, Director
4. CHANDRAKALA GONUGUNTLA, Director
5. YUGHANDHAR GANGIREDDY, Director
6. SANKARA REDDY CHITTE, Managing Director

Appellants

Date of hearing : 09.02.2023

Present : L. Dhanamjay Reddy, 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 F45698867 dated 19.11.2022 against the adjudication order No. ADJ 123/203 of 2022-23/2077 dated 08.09.2022 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 to fill 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 08.09.2022 and after hearing the authorized representative had levied a penalty of Rs. 5.00 Lakhs on the Company and Rs.0.50 Lakhs each for 5 directors i.e., Krishna Murthy Aravapalli, Ranga Rao Guddanti, Chandrakala Gonuguntla, Yughandhar Gangireddy and Sankara Reddy Chitte, Managing Director (total aggregating to Rs. 7.50 Lakhs).



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3. An opportunity of being heard was given to the Appellants on 15.02.2023. The authorized representative L. Dhanamjay Reddy, PCS appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted that though the company is having some book profits its liquidity position is in a very bad shape and company is unable to pay salaries to its employees. Further, due to Covid-19 impact its business could not be sustained 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.

(c) imposing maximum penalty by the Registrar of Companies on the company is harsh, burdensome on the Company.

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

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. 2,00,000/-, Krishna Murthy Aravapalli, Ranga Rao Guddanti, Chandrakala Gonuguntla, Yughandhar Gangireddy, Whole Time Directors and Sankara Reddy Chitte, Managing Director to Rs. 50,000/- each (total aggregating to Rs. 4,50,000/-). 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.

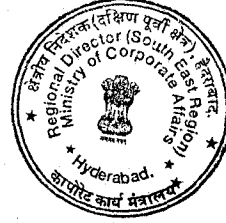


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5. Accordingly, penalty was paid by the Company amounting to Rs. 2,00,000/- Krishna Murthy Aravapalli, Ranga Rao Guddanti, Chandrakala Gonuguntla, Yughandhar Gangireddy, Whole Time Directors and Sankara Reddy Chitte, Managing Director to Rs. 50,000/- each (total aggregating to Rs. 4,50,000/-) vide SRN's X36418960, X36409555, X36411106, X36390946, X36412971 and X36387348 dated 23.02.2023 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 16th day of May 2023.



✓ M/S. Sai Achyuth Energy Private Limited
51/14-68-C-1-1, GLR Complex, 3rd Floor,
Opp: New Bus Stand Kurnool,
Andhra Pradesh- 518 003

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

Copy for information and necessary action to :

1. Registrar of Companies, Ministry of Corporate Affairs,
Andhra Pradesh, Vijayawada.
2. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.

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