

F.No:9/116/ADJ/SEC.203/2013/ANDHRA PRADESH /RD(SER)/2022 /519
BEFORE THE REGIONAL DIRECTOR, SOUTHEAST REGION
MINISTRY OF CORPORATE AFFAIRS, HYDERABAD
IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF AKULA BOARDS PRIVATE LIMITED

1. M/s. AKULA BOARDS PRIVATE LIMITED
2. Mr. Ganapathi Veeravenkata Naga Satyanarayana Akula, Managing Director
Appellants

Date of hearing : 08-02-2022

Present : Mr. D. MABU BASHA, 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 F43805258 Dated 15-11-2022 against the adjudication order No. ADJ 92/203 of 2022-23/1947 dated 07.09.2022 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 as specified in Section 203(1) of the Companies Act, 2013 after cessation of the previous Company Secretary on 31.07.2021 to till the date of adjudication order, 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 07.09.2022 and after hearing the authorized representative had levied a penalty of Rs. 5,00,000/- on the Company and Rs.50,000/- each for 2 directors i.e. Ganapathi Veeravenkata Naga Satyanarayana Akula, Managing Director and Vani Kumari Akula, Director (total aggregating to Rs. 6,00,000/-).

3. An opportunity of being heard was given to the Appellants on 08-02-2022. The authorized representative D. Mabu Basha, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and

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also submitted that the company's business operations of manufacturing of paper, including pulp is not reached the level of Break Even Point till this year, owing to fluctuations of cost of raw material, market conditions, finance cost and coupled with Covid-19 pandemic conditions was contributed particularly from last two years. The Company is suffering from continuous losses and loss for the financial year 2021-22 was Rs.5.99/- Crores and accumulated losses of Rs.19.74/- Crores, the accumulated losses is more than the paid up share capital, thus resulting negative net worth of Rs.1.74 Crores and the Company is facing the long drawn liquidity problem. Company is closely held Private Company with no participation of private investors and the company registered office is situated in a remote area. Failure to appoint Company Secretary for the period from 01.08.2021 to 05.07.2021, after casual vacancy caused by the resignation of then Company Secretary Ms. Bhavya Sree Jain with effect from 31.07.2021. Despite all these conditions the Company has appointed Mr. Vijay Singh Rajawat as Company Secretary of the Company with effect from 01.10.2022 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 and also to waive of the penalty of Directors as imposed 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) company's business operations of manufacturing of paper, including pulp is not reached the level of Break Even Point till this year. Owing to fluctuations of cost of raw material, market conditions, finance cost and coupled with Covid-19 pandemic conditions was contributed particularly from last two years

(b) company is suffering from continuous losses and loss for the financial year 2021-22 was Rs.5.99/- Crores and accumulated losses of Rs.19.74/- Crores, the accumulated losses is more than the paid up share capital, thus resulting negative net worth of Rs.1.74 Crores



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- (c) company is facing the long drawn liquidity problem.
- (d) company is a closely held Private Company
- (e) company registered office is situated in a remote area

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 Company to Rs. 1,00,000/- and for Ganapathi Veeravenkata Naga Satyanarayana Akula, Managing director for Rs.50,000/- (total aggregating to Rs.1,50,000/-) and no penalty was imposed on Mrs. Vani Kumari Akula, Director 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.

5. Accordingly, penalty was paid by the Company amounting to Rs. 1,00,000/- and for Ganapathi Veeravenkata Naga Satyanarayana Akula, Managing Director for Rs.50,000/- (total aggregating to Rs.1,50,000/-) vide SRN's X36134047, X36133890 dated 20.02.2023 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 25th day of April 2023.


(B. MOHANTY)
REGIONAL DIRECTOR (SER)
HYDERABAD

1. M/s. AKULA BOARDS PRIVATE LIMITED
No.35-32-2, AB Bhavan,
Yanamandra Vari Street, Tanuku,
West Godavari District, Andhra Pradesh-534211.

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2. Mr. Ganapathi Veeravenkata Naga Satyanarayana Akula,
Managing Director, 1-91, Babugari Veedhi,
Padiparru Tanuku, Tanuku,
Andhra Pradesh-534211.
3. Registrar of Companies, Ministry of Corporate Affairs,
Andhra Pradesh, Vijayawada.
4. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.

