

F.No:9/115/ADJ/SEC.203/2013/ANDHRA PRADESH /RD(SER)/2022 /527

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION

MINISTRY OF CORPORATE AFFAIRS, HYDERABAD

IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF TIANYUAN GARMENTS INDIA PRIVATE LIMITED

1. M/s. Tianyuan Garments India Private Limited
2. Shyam Prasad, Director
3. Lei Yinshuan, Director
4. Wang Jizheng, Director

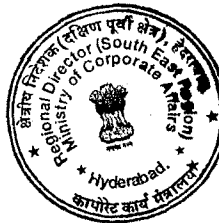
Appellants

Date of hearing : 08.02.2023  
Present : Mr. Shubham Jain, 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 F43240449 dated 14.11.2022 against the adjudication order No. ADJ 127/203 of 2022-23/2153 dated 09.09.2022 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 till the date of passing adjudication order, despite paid up capital has exceeded the prescribed limit as stated in the provisions of Section 203(1) of the Companies Act, 2013. Hearing was held before Registrar of Companies on 09.09.2022 and after hearing the authorized representative had levied a penalty of Rs.5.00 Lakhs each on the Company and three directors i.e., Shyam Prasad, Director, Lei Yinshuan, Director and Wang Jizheng, Director (total aggregating to Rs.20.00 Lakhs).



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3. An opportunity of being heard was given to the Appellants on 08.02.2023. The authorized representative Mr. Shubham Jain, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted that the company is a subsidiary of Shandong Tianyuan Garments Co. Ltd of China. Company is having two shareholders one being a individual named Shyam Prasad holding 0.06% shares. During the financial year 2019-20, its paid up share capital was increased to Rs.15,96,44,850/- accordingly issued the equity shares to its holding company, which is a foreign company. However, the operational activities could not be commenced by the Company due to Covid-19 breakdown and no profit could be generated since incorporation till current year i.e. Company is into losses for the financial year 2019-20, 2021 and 2021-22 for amounting to Rs.13,06,240/-, 134,53,039/- and 1,35,07,129/- respectively and considering the said losses company is not capable enough to attract the Key Managerial Personnel to its current location by offering handsome sum of money to them. Company tried hard to recruit a Whole Time Company Secretary, however on account of its being situated in a remote location, no candidate was willing to join and be the part of the Company. Despite all these conditions the Company has appointed Ms. Anjali Jain as Company Secretary of the Company with effect from 19.10.2022 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. 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) the operational activities could not be commenced by the Company due to Covid-19 breakdown and no profit could be generated since incorporation till current year.

(b) company is into losses for the financial year 2019-20, 2021 and 2021-22 for amounting to Rs.13,06,240/-, 134,53,039/- and 1,35,07,129/- respectively.

(c) registered office of the Company is situated at a remote place



Contd..3.

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


(e) shareholders of the Company are family members, no public interest is involved.

(f) Registrar of Companies passed the adjudication order without taking into consideration any of the above facts as evident from his order dated 09.09.2022

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 Company to Rs.1,00,000/-, Lei Yinshuan, Director, Wang Jizheng, Director and Shyam Prasad, Director to Rs.50,000/- each (total aggregating to Rs.2,50,000/-). 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.

5. Accordingly, penalty was paid by the Company amounting to Rs.1,00,000/-, Lei Yinshuan, Director, Wang Jizheng, Director and Shyam Prasad, Director to Rs.50,000/- each (total aggregating to Rs.2,50,000/-) vide SRN's X35408095, X35411172, X35413053 and X35286517 dated 10.02.2023 & 11.02.2023 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 25<sup>th</sup> day of April 2023.

  
(B. MOHANTY)  
REGIONAL DIRECTOR (SER)  
HYDERABAD

1. M/s. Tianyuan Garments India Private Limited  
Plot No: 10 A & Plot No: 10 Part, Brandix India Apparel City Pvt Ltd,  
Sez Pudimadaka Road, Achutapuram Mandal,  
Vishakhapatnam, Andhra Pradesh- 531011.
2. Registrar of Companies, Ministry of Corporate Affairs,  
Andhra Pradesh, Vijayawada.
3. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.

