

F.No:9/95/ADJ/SEC.203/2013/ANDHRA PRADESH /RD(SER)/2022 /1473

BEFORE THE REGIONAL DIRECTOR, SOUTH EAST REGION
MINISTRY OF CORPORATE AFFAIRS, HYDERABAD
IN THE MATTER OF COMPANIES ACT, 2013

IN THE MATTER OF BALA BALAJEE TEXTILES LIMITED

1. M/s. Bala Balajee Textiles Limited
2. Naga Venkata Satya Saibaba Kompella, CFO
3. Chitturi Satyausha Rani, Director
3. Venkat Krishna Rao Chitturi, Director
4. Kondalarao Garimella, Director
5. Bhaskara Rao Mamidisetty, Director
6. Reena Sai Narra Chitturi, Director

Appellants

Date of hearing : 07.02.2023
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 F34049742 dated 27.10.2022 against the adjudication order No. ROC(V)/ADJ/454/Sec 203(5)/BBTL/2022-23/1336 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.

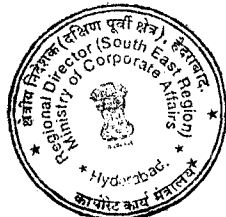
2. Registrar of Companies in his order of adjudication has stated that the company has failed to appoint a Whole Time Company Secretary after the cessation of previous Company Secretary on 28.08.2019. Hearing was held before Registrar of Companies on 17.08.2022 and after hearing the authorized representative had levied a penalty on the Company, Naga Venkata Satya Saibaba Kompella, CFO, Chitturi Satyausha Rani, Venkat Krishna Rao Chitturi, Kondalarao Garimella, Bhaskara Rao Mamidisetty, Directors amounting to Rs.5,00,000/- each and for Reena Sai Narra Chitturi, Director for Rs.3,11,000/- (total aggregating to Rs.33,11,000/-)

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3. An opportunity of being heard was given to the Appellants/authorized representative on 07.02.2023. The authorized representative Mr. M B Suneel, Practicing Company Secretary appeared on behalf of the appellants and reiterated the submissions made in the appeal and also submitted that upon cessation of the pervious Company Secretary on 28.08.2019 the Company had failed to appoint a Whole Time Company Secretary as the Company was unable to find a suitable Company Secretary and also owing to the location of the registered office of the Company at a remote place and subsequently reluctance of any of the personal to join the company in the said capacity. Since more than a decade the performance of the company was inadequate owing to various uncontrollable business factors like price fluctuations of the raw cotton, poor yielding from the production etc. and by the year ended 31.03.2015 the paid up share capital of the company was completely eroded due to accumulated losses of Rs.13.30 crores. Subsequently, the Company had got registered as a sick unit under "The Sick Industrial Companies (Special Provisions) Act, 1985". During this period, in view of the defaults in payment of the instalments the State Bank of India had filed a suit against the Company, at Debt Recovery Tribunal, for recovery of its dues as the account of the Company became an NPA.

Further, in the year 2018 the Company had applied for One Time Settlement (OTS) option with the State Bank of India and after a series of detailed negotiation the Company got approval for One Time Settlement from the management of State Bank of India. Subsequently, the Company attempted to sell off its plant and machinery and other immovable properties for paying the OTS amount by the same was not materialized. Later, in the year 2019 the Directors have sold their personal assets and had also borrowed funds from their known sources and had repaid the OTS amount. The performance of the Company has worsened more during the period of Covid pandemic which led to the economic slowdown of the textile industry. The contraventions of the provisions of Section 203 of the Companies Act, 2013 is inadvertent in nature and is due to unavoidable circumstances owing to the business reasons. Company is still in the process of finding a suitable candidate and is unable to find one owing to the situation of the registered office of the Company is in a



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remote location and also stated that the offence committed by the Company/ Directors do not affect the public interest in any way, and no harm is caused to the public interest. The maximum penalty imposed by the Adjudicating Officer may make a negative impact to the Company in a permanent manner and may result in insolvency of the Company. Payment of the said penalty is a huge burden for the directors and shall loose their further hope of reviving the business activities of the Company and requested to waive the penalty as imposed by the Adjudicating Officer vide its order dated 17.08.2022 on the applicant Company and its 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 waiving off the penalty due to the following reasons:

(a) Company is not functional from 2021 and not carrying any business from 2016 onwards and profit shown in the Balance Sheet for the financial year ending 2020-21 is due to sale of Plant & Machinery and Company is going to close its affairs once settlement is made with the Statutory Authorities.

(b) unable to find a suitable Company Secretary and also owing to the location of the registered office of the Company at a remote place. Since more than a decade the performance of the company was inadequate owing to various uncontrollable business factors like price fluctuations of the raw cotton, poor yielding from the production. In the year ended 31.03.2015 the paid-up share capital of the company was completely eroded due to accumulated losses of Rs.13.30 crores. Company had got registered as a sick unit under "The Sick Industrial Companies (Special Provisions) Act, 1985". State Bank of India had filed a suit against the Company, at Debt Recovery Tribunal, for recovery of its dues as the account of the Company became an NPA. In the year 2018 the Company had applied for One Time Settlement (OTS) option with the State Bank of India and after a series of detailed negotiation the Company got approval for One Time Settlement from the management of State Bank of India. In the year 2019 the Directors have sold their personal assets and had also borrowed funds from their known sources and had repaid the OTS amount. Performance of the Company has worsened more during the period of pandemic which led to the economic slowdown of the textile industry.

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(c) offence committed by the Company/ Directors do not affect the public interest in any way, and no harm is caused to the public interest.


(d) Registrar of Companies passed the Adjudication Order in a mechanical manner without taking into consideration the above facts as evident from his order dated 17.08.2022.

5. Taking into consideration the facts of the appeal and submissions made by the authorized representative and the reasons as states by the undersigned at para 4 above, the Adjudication Order passed by the Registrar of Companies dated 17.08.2022 is set aside and matter is returned back to Registrar of Companies advising to re-examine the issues and pass fresh order by taking the above facts into consideration. Accordingly, adjudication order passed by Registrar of Companies dated 17.08.2022 is hereby disposed off.

6. Accordingly, this order is issued to the Appellant Company 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.

7. The Appellant Company is directed to file a copy of this order with Registrar of Companies, in Form INC-28 within 30 days.

Issued under my hand and seal on this the 25th day of April 2023.


(B. MOHANTY)
REGIONAL DIRECTOR(SER)
HYDERABAD

Copy for information and necessary action to :

1. M/s. Bala Balajee Textiles Limited
H.No:1-14-92, Talla Puntha Veedhi,
Wad No.14, Tanuku Mandalam,
Tanuku, West Godavari,
Andhra Pradesh-532 211.



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~~2.~~ Registrar of Companies, Ministry of Corporate Affairs, Andhra Pradesh, Vijayawada.

3. The Joint Secretary, E-Governance Cell, Ministry of Corporate Affairs, New Delhi.



(B. MOHANTY)
REGIONAL DIRECTOR(SER)
HYDERABAD