

ADJ/04/RD (SR)/2022-23

BEFORE THE REGIONAL DIRECTOR
(SOUTHERN REGION)
MINISTRY OF CORPORATE AFFAIRS, CHENNAI
IN THE MATTER OF THE COMPANIES ACT, 2013
SECTION 454(7) OF COMPANIES ACT, 2013

IN THE MATTER OF M/s. HERB NUTRA LAB PRIVATE LIMITED

1. M/s. Herb Nutra Lab Private Limited
2. Shri. Arunachalam Andimuppanar, Director of M/s. Herb Nutra Lab Private Limited
3. Shri. Ragu, Director of M/s. Herb Nutra Lab Private Limited
4. Smt. Sadhagoban Kokila, Director of M/s. Herb Nutra Lab Private Limited

...Applicants/Appellants

Date of hearing : 24.01.2023

Present : Shri. Balu Sridhar, PCS (CP. No. 3550) and
Shri. C. Krishnan, PCS (CP. No. 24015)

ORDER

This is an appeal filed under Section 454 (5) of the Companies Act, 2013 by the above Applicants in Form ADJ vide SRN: F38465118, dated 01.11.2022 against the Adjudication Order No. ROC/CHN/Herb Nutra/ADJ Order/Sec. 92 & 137/JTA(SK)/2022, dated 05.09.2022 under Section 454 (3) passed by the Registrar of Companies, Chennai, Tamil Nadu for default committed under Sec. 92(4) and Sec. 137(1) of the Companies Act, 2013.

2. As per Sec. 92(4) of the Companies Act, 2013, every company shall file with the Registrar a copy of the annual return, within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed, within the time as specified, under section 403.

3. As per Sec. 137(1) of the Companies Act, 2013, a copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified under section 403.

4. The company ought to have held its AGM for the financial year 2019-2020 on or before 30.09.2020 and the Ministry vide Circular No. ROC-CHN/96-AGM/2020, dated 08.09.2020 had granted extension of time for convening AGM on or before 31.12.2020 and Annual Return (Form MGT-7) is required to be filed within 60 days i.e. on or before 01.03.2021 and Financial Statement (Form AOC-4) is to be filed within 30 days i.e. on or before 30.01.2021 from the date of conduct of AGM i.e. 31.12.2020. However, the company managed to hold the AGM only on 16.04.2022 and filed Form MGT-7 on 10.06.2022 with a delay of 465 days and Form AOC-4 on 10.06.2022 with a delay of 495 days. Hence, the company has violated the provisions of Sec. 92(4) and Sec. 137(1) of the Companies Act, 2013.

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5. The Registrar of Companies, Chennai, Tamil Nadu examined the said default and passed the Adjudication Order No. ROC/CHN/Herb Nutra/ADJ Order/Sec. 92 & 137/JTA(SK)/2022, dated 05.09.2022 (impugned order) under Section 454 (3) and (4) of the Companies Act, 2013 for default in compliance with the requirements of Sec. 92(4) and Sec. 137(1) of the Companies Act, 2013 and imposed a penalty of Rs. 1,16,000/- [Rs. 56,500 for Sec. 92(4) and Rs. 59,500 for Sec. 137(1)] upon the Company and Rs. 1,00,000/- each [Rs. 50,000 each for Sec. 92(4) and Rs. 50,000 each for Sec. 137(1)] upon Shri. Arunachalam Andimuppanar, Director; Shri. Ragu, Director; and Smt. Sadhagoban Kokila, Director of the company for the above default.

6. The Appellants have contended the impugned order and pleaded that the non-compliance had occurred due to unavoidable circumstances and default was unintentional.

7. An opportunity of being heard was given to the Appellants on 24.01.2023. The Authorized Representatives have appeared for the Appellants, while reiterating the grounds taken in the appeal had stated that the Company was not in a position to conduct the AGM and file the statutory returns in time, as Shri. Shahul Hammed, Ex-Director who was in-charge of banking, accounting and maintaining of registers, has misappropriated the company's funds and also created unnecessary harassment by way of lodging criminal complaint before the Hon'ble Judicial Magistrate-I, Chengalpattu, in which direction issued to SHO, Kelambakkam Police Station to investigate the matter and file report. Further, Shri. Shahul Hammed has also filed complaints with ROC, Chennai against the company and ROC has summoned all the directors of the company. The Company has taken onerous efforts to persuade Shri. Shahul Hammed to grant access to bank accounts and to the accounting records and registers and all such efforts went in vain for the company. In view of above, the company could not conduct the AGM for 2019-20 in time and managed to hold it on 16.04.2022 and also filed the statutory returns and made good the offence and hence prayed for lenient view.

8. Though there is a default committed, there is a ground in interfering with the impugned adjudication order of the Registrar of Companies to the extent of reducing the quantum of penalty. Accordingly, the penalties imposed are reduced from Rs. 1,16,000/- to Rs. 20,000/- for the Company and Rs. 1,00,000/- each to Rs. 20,000/- each for Shri. Arunachalam Andimuppanar, Director; Shri. Ragu, Director; and Smt. Sadhagoban Kokila, Director of the Company. The Appellants shall pay the penalty in 15 days.

Dated at Chennai this the 06th day of February, 2023



(Dr. RAJ SINGH)
REGIONAL DIRECTOR (SR)

To

- ✓ 1. M/s. Herb Nutra Lab Private Limited,
No. 1, Mayana Salai, Uthiramerur Taluk,
Kilakkadi Village, Kancheepuram,
Tamil Nadu - 603 107.
2. The Registrar of Companies, Chennai, Tamil Nadu.
3. The Officer in Charge, e-Gov. Cell, Ministry of Corporate Affairs, A-Wing, Shastri Bhavan, Dr. Rajendra Prasad Road, New Delhi -110 001- with a request to upload this Order on the website of the Ministry. Send via mail to Shri. B. Srikumar, Joint Director, (srikumar.b@gov.in) and Shri. Vivek Meena, Asst. Director (vivek.meena@gov.in)