

BEFORE THE REGIONAL DIRECTOR
(SOUTHERN REGION)
MINISTRY OF CORPORATE AFFAIRS, CHENNAI
IN THE MATTER OF THE COMPANIES ACT, 2013
SECTION 454(5) OF COMPANIES ACT, 2013

IN THE MATTER OF M/s. ONECUP BEVERAGES PRIVATE LIMITED

1. M/s. Onecup Beverages Private Limited
XVI-444, Palakuzhiyil South of Petta,
Arakuzha Road, Muvattupuzha,
Ernakulam, Kerala - 686 661.

2. Mr. Ricky Wilson, Director

.....Appellants

ORDER

M/s. Onecup Beverages Private Limited (hereinafter referred to as the Company), having share capital, was incorporated on 29.01.2019 and e-Form INC 20A was not filed within the prescribed period of 180 days from the date of incorporation, as required under sub-clause (a) of sub-section (1) of Section 10A of the Companies Act, 2013 (hereinafter referred to as the Act, 2013) and had filed the said form belatedly with a delay of 113 days on 18.11.2019. The Registrar of Companies, Kerala and Lakshadweep examined the said default and passed the Adjudication Order No. ROC/S-454/10A/81/2020, dated 13.01.2020 under Section 454 (3) & (4) of the Act, 2013 for the delay of 113 days in filing the Form INC-20A under Section 10A(2) of the Act, 2013 read with Rule 23A of the Companies (Incorporation) Rules, 2014 (hereinafter referred to as the Rules, 2014) and imposed a penalty of Rs. 50,000/- upon the Company and Rs. 1,00,000/- upon the Director in default viz. Mr. Ricky Wilson, being the maximum penalty.

2. Aggrieved by the above said Order dated 13.01.2020, the instant appeal was filed by the Appellants in terms of Section 454 (5) of the Act in Form ADJ on 24.04.2021 vide SRN: T15799406. The appeal was filed with a delay of 407 days, which is beyond the prescribed limitation period of 60 days in terms of Sec. 454(6) of the Act. The company has claimed extension on the period of limitation by excluding the period from 15.03.2020 to 14.03.2021 citing the order of Hon'ble Supreme Court of India in Suo Motu Writ Petition (Civil) No. 3 of 2020, dated 08.03.2021, which cannot be considered as the Ministry vide General Circular No. 12/2020, dated 30.03.2020 in Para No. 6(vi) has already granted further extension of 120 days on cases where the last date of filing the appeal against the order of the adjudicating authority under Sec. 454(6) fall

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between 01.03.2020 to 31.05.2020. The due date for filing appeal by the company falls on 12.03.2020 and the company had further time upto 10.07.2020 to file the appeal by invoking Ministry's General Circular No. 12/2020, whereas the company has filed the appeal only on 24.04.2021, thereby the company had failed to file appeal against adjudication order within the above stipulated time period.

3. The claim of the company with respect to extension of period of filing Form INC-20A by another 180 days as per Ministry's General Circular No. 11/2020, dated 24.03.2020 is also not applicable in the instant case, as the additional 180 days granted is applicable only to those companies incorporated on or after 26.09.2019.

4. In view of the above reasons, the Appeal is dismissed as rejected and the ROC's adjudication order dated 13.01.2020 is upheld. The Appellants are directed to remit the penalties imposed within 15 days of receipt of this order failing which ROC, Kerala is directed to file prosecution in terms of Sec. 454(8)(ii) of the Companies Act, 2013 without any further notice.

Dated at Chennai this the 13th day of July, 2021.




(DR. K. THIRUMALAIMUTHU)
REGIONAL DIRECTOR (SR)

To

- ✓ 1. M/s. Onecup Beverages Private Limited
XVI-444, Palakuzhiyil South of Petta,
Arakuzha Road, Muvattupuzha,
Ernakulam, Kerala - 686 661.
2. Mr. Ricky Wilson, Director
3. The Registrar of Companies, Kerala.
4. 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. Mail sent to Shri Vivek
Meena, Asst. Director (vivek.meena@gov.in) and Shri B. Srikumar, Joint
Director, (srikumar.b@gov.in)