

ADJ/30/RD (SR)/2019-20

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. INDOVIET FOOD AND BEVERAGES PRIVATE LIMITED

1. M/s. Indoviet Food and Beverages Private Limited,  
XI/842, Old No. 16/1054, Opposite Fishing Harbour Bus Stop,  
Thoppumpady, Kochi, Ernakulam,  
Kerala - 682 005.
2. Shri. Mohammed Sham, Director ...Applicants/ Appellants

Date of hearing : 27.01.2021

Present : Shri. S. Narasimman, Senior Manager  
M/s. SAS Partners Corporate Advisors Private Limited

**ORDER**

This is an appeal filed under Section 454 (5) of the Companies Act, 2013 by the above Applicants in Form ADJ vide SRN No. R35818475, dated 19.03.2020 against the Adjudication Order No. ROC/S-454/10A/144/2020, dated 20.01.2020 under Section 454 (3) passed by the Registrar of Companies, Kerala for default in compliance with the requirements of Section 10A of the Companies Act, 2013 read with the Companies (Adjudication of Penalties) Rules, 2014.

2. The subject Company was incorporated on 20.02.2019. E-form INC-20A should have been filed within a 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 42 days on 30.09.2019. The Registrar of Companies, Kerala examined the said default and passed the Adjudication Order No. ROC/S-454/10A/144/2020 dated 20.01.2020 (impugned order) under Section 454 (3) & (4) of the Act, 2013 for the delay of 42 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. 42,000/- upon the Director in default viz. Shri. Mohammed Sham @ Rs. 1,000/- per day.

3. The Appellants have contended the impugned order on the grounds that the company is a small company with paid up capital of Rs. 5,00,000/- and the default does not affect the public at large and do not involve any Criminal Nature and penalty imposed is not affordable to the present financial position of the company and that the delay was not intentional.


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4. An opportunity of being heard was given to the Appellants on 27.01.2021. The Authorized Representative Shri. S. Narasimman, Senior Manager of M/s. SAS Partners Corporate Advisors Private Limited has appeared for the Appellants while reiterating the grounds taken in the appeal had stated that the company is a small company and the penalty imposed is not affordable and hence sought condonation.

5. 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. 50,000/- to Rs. 12,500/- for the Company and from Rs. 42,000/- to Rs. 10,500/- for the Director. The Appellants shall pay the penalty in 30 days.

Dated at Chennai this the 28<sup>th</sup> day of January, 2021.



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

To

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Kerala - 682 005.
2. Shri. Mohammed Sham, 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)