

ADJ/16/RD (SR)/2019-20

BEFORE THE REGIONAL DIRECTOR
(SOUTHERN REGION)
MINISTRY OF CORPORATE AFFAIRS, CHENNAI
IN THE MATTER OF THE COMPANIES ACT 2016
SECTION 454(7) OF COMPANIES ACT 2013

IN THE MATTER OF M/s. NITHYANANDA ORGANIC FARM PRIVATE LIMITED

1. M/s. Nithyananda Organic Farm Private Limited,
PPVI 667A, Pranavam, Thiruvonapuram,
Peravoor (PO), Kannur,
Kerala.
2. Shri. Pradeep Kumar PooleriApplicants/ Appellants

Date of hearing 26.10.2020

Present Shri. Cheringal Jithesh, Practising Company Secretary
(COP No. - 18272)

ORDER

This is an appeal filed under Section 454 (7) of the Companies Act, 2013 by the above Applicants in Form ADJ vide SRN No. R35383074, dated 13.03.2020 against the Adjudication Order No. ROC/S-454/10A/67/2020 dated 13.01.2020 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 19.11.2018. 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 161 days on 26.10.2019. The Registrar of Companies, Kerala examined the said default and passed the Adjudication Order No. ROC/S-454/10A/67/2020 dated 13.01.2020 (impugned Order) under Section 454 (3) & (4) of the Act, 2013 for the delay of 161 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. Shri. Pradeep Kumar Pooleri, being the maximum penalty.

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3. The company contended in the Appeal that there was no alert while incorporating the company that there is a need to file this form and therefore, the directors did not realize the requirement. Moreover, the paid up capital of the company is only Rs. 1,00,000/- whereas the penalty levied is Rs. 1,50,000/-

4. An opportunity of being heard was given to the Appellants on 26.10.2020, where the Authorized Representative Shri. Cheringal Jithesh, PCS appeared for the Appellants, while adopting the grounds of appeal was filed, further stated that the subscribers brought subscription money of Rs. 1,00,000/- in time (by December, 2018), they did not pool resources to commence business and hence, they did not do any business till date.

5. The only mitigating factor in this case is that the company did not do any business. However, the delay of 161 days is substantial. Hence, the penalty of Rs. 50,000/- levied on the company is reduced to Rs. 25,000/- and the penalty levied on the officer in default is reduced to Rs. 50,000/- from Rs. 1,00,000/-. The Appellants shall pay the penalty in 30 days.

Dated at Chennai this the 03rd day of November, 2020.



(M.R. BHAT)
REGIONAL DIRECTOR (SR)

To

1. M/s. Nithyananda Organic Farm Private Limited,
PPVI 667A, Pranavam, Thiruvonapuram,
Peravoor (PO), Kannur,
Kerala.
2. Shri. Pradeep Kumar Pooleri
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, Deputy Director, (srikumar.b@gov.in)