

ADJ/17/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. FORTUNE OF THE WORLD HEALING CENTERS
PRIVATE LIMITED

1. M/s. Fortune of the World Healing Centers Private Limited,
Room No. J-19C, 5/1312, Qatar Plaza Building,
East Nadakkavu, Calicut,
Kerala - 673 006.
2. Shri. Biju Thenangal Govindan NairApplicants/ 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. R35386150, dated 13.03.2020 against the Adjudication Order No. ROC/S-454/10A/75/2020 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 27.11.2018. 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 139 days on 12.10.2019. The Registrar of Companies, Kerala examined the said default and passed the Adjudication Order No. ROC/S-454/10A/75/2020 dated 13.01.2020 (impugned Order) under Section 454 (3) & (4) of the Act, 2013 for the delay of 139 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. Biju Thenangal Govindan Nair, being the maximum penalty.

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3. The Appellants opposed the adjudication on the ground that there was no warning or alert at the time of filing of incorporation documents that this form needed to be filed and further, the penalty of Rs. 1,50,000/- is too high and not affordable since the paid up capital is only Rs. 1,00,000/-.

4. An opportunity of being heard was given to the Appellants on 26.10.2020. The Authorized Representative Shri. Cheringal Jithesh, PCS appeared for the Appellants and contended that company did not commence any operations till date due to non-availability of projects and further represented that they wish to exit but are unable to file Form STK-2 because of pendency of this appeal. An affidavit was filed that they did not carry out any business. He also undertakes to file Form STK-2 within 30 days of complete disposal of the pending appeal and upon payment of finally adjudicated penalty.

5. In light of the above, there is ground in interfering with the impugned adjudication order of the Registrar of Companies to the extent of reducing the penalty. Accordingly, the penalties are reduced to Rs. 25,000/- on the Company and Rs. 12,500/- for the Director. 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. Fortune of the World Healing Centers Private Limited,
Room No. J-19C, 5/1312, Qatar Plaza Building,
East Nadakkavu, Calicut,
Kerala - 673 006.
2. Shri. Biju Thenangal Govindan Nair
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)