

ADJ/07/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. TRIPUNTOLD PRIVATE LIMITED

1. M/s. Tripuntold Private Limited
C/o. Raghavan Nambiar, Sivaprabha House,
Purameri, Vatakara, Kozhikode, Kerala - 673 503.
2. Shri. Prabhath KolpattilAppellants

Date of hearing 26.10.2020

Present Shri. Prabhath Kolpattil, Director
Shri. Nirmal Raghavan, Director

ORDER

M/s Tripuntold Private Limited (hereinafter referred to as the Company), having share capital, was incorporated on 14.03.2019 but the Appellant Directors failed to file the declaration in e-form INC 20A 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 32 days on 12.10.2019. The Registrar of Companies, Kerala and Lakshadweep examined the said default and passed the Adjudication Order No. ROC/S-454/10A/145/2020 dated 20.01.2020 (impugned Order) under Section 454 (3) & (4) of the Act, 2013 for the delay of 32 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. 32,000/- upon the Director in default viz. Shri. Prabhath Kolpattil @ Rs. 1,000/- per day.

2. Aggrieved by the above said Order dated 20.01.2020, the instant appeal was filed by the Appellants in terms of Section 454 (5) of the Act in Form ADJ on 03.03.2020 vide SRN: R34539437. The appeal was filed within limitation period.

3. The appellants have sought condonation of delay on the ground that they had tried to file the Form INC-20A two times before the due date but was not able to make the payment to complete the filing process.

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4. An opportunity of being heard was afforded on 26.10.2020 to the Appellants who contended that the delay of 32 days occurred in filing the Form INC-20A due to the fact that the Appellants have tried uploading Form INC-20A twice on 08.09.2019 and 10.09.2019, but the system was not allowing to choose 'Pay Later Option' and they have also visited the ROC office on 20.09.2020 and submitted a complaint in this regard. They also tried to get the issue sorted out by the Help Desk, which resulted in delay. Finally they succeeded in filing the form on 12.10.2019. The relevant evidence was filed during the process of hearing. The Appellants therefore requested waiver of penalty due to extraordinary circumstances.

5. Considering the grounds urged by the Appellants in the Appeal and the submissions made as well as the fact that the Form INC-20A was filed subsequently, the undersigned deems it appropriate to set aside the impugned Order dated 20.01.2020 passed by the ROC, Kerala. The Appellants are directed to file order in Form No.INC-28 within a period of 30 days on MCA-21 Portal.

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




(M.R. BHAT)

REGIONAL DIRECTOR (SR)

To

1. M/s. Tripuntold Private Limited
C/o. Raghavan Nambiar, Sivaprabha House,
Purameri, Vatakara, Kozhikode, Kerala - 673 503.
2. Shri. Prabhath Kolpattil
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)