

ADJ/45/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. FOUR PILLARS CONFIAR TRADERS AND
EXPORTERS PRIVATE LIMITED

1. M/s. Four Pillars Confiar Traders and Exporters Private Limited,
KP III/54, First Floor Santhi Bhavan,
Kanchiyoorkonam, Kattakada P.O,
Thirvananthapuram, Kerala - 695 572.
2. Shri. Rethesh Kumar Sevankutty 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. R35942093, dated 20.03.2020 against the Adjudication Order No. ROC/S-454/10A/124/2020 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 12.03.2019. 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 80 days on 27.11.2019. The Registrar of Companies, Kerala examined the said default and passed the Adjudication Order No. ROC/S-454/10A/124/2020 dated 20.01.2020 (impugned Order) under Section 454 (3) & (4) of the Act, 2013 for the delay of 80 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. 80,000/- upon the Director in default viz. Shri. Rethesh Kumar Sevankutty Nair @ Rs. 1,000/- per day.

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3. Assailing the Adjudication order, the Appellant contended that the delay in filing Form INC-20A was on account of there being no guidance to the effect while filing incorporation forms and therefore, there is no malafide intention. Moreover, the company contended that the paid up capital is only Rs. 10 Lakhs.

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 and submitted that apart from the grounds taken in the Appeal that there were disputes between three directors who were subscribers and this lead to delay in filing Form INC-20A. The Authorized Representative was asked to state as to whether any sale or purchase activity was there prior to 27.11.2019, the date on which INC-20A was filed. He was not in a position to clarify. However, the first financial statement for the period ending 31.03.2019 reflect that there was a revenue of Rs. 3,47,306.72 and purchase of Rs. 3,01,525.97 leaving a loss of Rs. 497.67. Thus, the company appeared to have business activities also though the volumes are small. Hence, though there is no ground made to justify the default, a ground is made out for reducing the quantum of penalty.

5. Accordingly, the penalties are reduced to Rs. 25,000/- on the Company and Rs. 40,000/- 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. Four Pillars Confiar Traders and Exporters Private Limited,
KP III/54, First Floor Santhi Bhavan,
Kanchiyookonam, Kattakada P.O,
Thirvananthapuram, Kerala - 695 572.
2. Shri. Rethesh Kumar Sevankutty 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)