

ADJ/57/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. CARMENL BUILDCON PRIVATE LIMITED

1. M/s. Carmenl Buildcon Private Limited,
32/603 J, R&R Nirmithikendram Complex,
Sanathanapuram P.O., Kalarcode,
Kerala - 688 003.
2. Shri. Rajeev Padmanabhan, DirectorApplicants/ Appellants

Date of hearing 02.12.2020
Present Shri. Prince Mathew, (CP No. 23547)
Practicing Company Secretary

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. R36227049, dated 31.03.2020 against the Adjudication Order No. ROC/S-454/10A/183/2020, dated 21.01.2020 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 20.11.2018. 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 164 days on 30.10.2019. The Registrar of Companies, Kerala examined the said default and passed the Adjudication Order No. ROC/S-454/10A/183/2020 dated 21.01.2020 (impugned order) under Section 454 (3) & (4) of the Act, 2013 for the delay of 164 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. Rajeev Padmanabhan being the maximum penalty.

3. The Appellant while filing the appeal contended that the default mentioned in the section is applicable only if the company commenced any business or borrowing power before filing of the declaration form INC-20A and the delay was not intentional.

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4. An opportunity of being heard was given to the Appellants on 02.12.2020. The Authorized Representative Shri. Prince Mathew, Company Secretary in Practice appeared for the Appellants while reiterating the grounds taken in the appeal had sought for reducing or waiving the penalty imposed.

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 to 40 % for both i.e. from Rs. 50,000/- to Rs. 20,000/- for the Company and from Rs. 1,00,000/- to Rs. 40,000/- for the Director. The Appellants shall pay the penalty in 30 days.

Dated at Chennai this the 08th day of December, 2020.




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

To

1. ✓ M/s. Carmenl Buildcon Private Limited,
32/603 J, R&R Nirmithikendram Complex,
Sanathanapuram P.O., Kalarcode,
Kerala - 688 003.
2. Shri. Rajeev Padmanabhan, 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, Deputy Director, (srikumar.b@gov.in)