

ADJ/01/RD (SR)/2019-20 (Dreijay))
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 DREIJAY EXPORTS PRIVATE LIMITED

1 M/s Dreijay Exports Private Limited
XII/164, Kuttianickel House,
Velliamattom P O,
Thodupuzha, Idukki,
Kerala - 685 588

2 Shri Jincemon Joseph

Appellants

Date of hearing 04 09 2020

Present **Shri N.V. Prakash, Advocate, Roll No.2269/2007**

ORDER

M/s Dreijay Exports Private Limited (hereinafter referred to as the Company), having share capital, was incorporated on 20 12 2018 but the Appellant Director 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 23 days on 11 07 2019. The Registrar of Companies, Kerala and Lakshadweep examined the said default and passed the Adjudication Order No ROC/S-454/10A/2020 dated 20 01 2020 (impugned Order) under Section 454 (3) & (4) of the Act, 2013 for the delay of 23 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 23,000/- upon the Director in default viz Shri Jincemon Joseph @ 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 17 02 2020 vide SRN R 33298431. The appeal was filed within limitation period

3 The appellants have contended in the Appeal that delay occurred due to inadvertence, unintentional and only accidental due to the circumstances beyond the control of the petitioner Company and hence sought condonation of delay and prayed for setting aside of the impugned Order



4 An opportunity of being heard was afforded on 04 09 2020 to the Appellants who were represented by their Authorized Representative Shri N V Prakash, Advocate who contended that the delay was hardly 23 days and the same may be condoned and further contended that the Company's paid up capital is only Rs 50,000/- whereas the penalty levied is as much as Rs 50,000/- on the Company and Rs 23,000/- on the Officer who is in default which is burdensome and unreasonable and further stated during the first financial year ended 31 03 2019, the Company made a nominal sales of about Rs 85 lacs against which the Company made a loss of Rs 5,600/- The Authorized Representative further pleaded that if the penalties are upheld, it would wipe out the entire share capital and would nip the startup in the bud and requested for setting aside of the impugned order

5 Considering the grounds urged by the Appellants in the Appeal and the submissions made by the Authorized Representative, the undersigned deems that keeping in view the delay of 23 days, which is nominal and not substantial and the low equity base of the Company, and accordingly 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 12th day of September, 2020




(M.R. BHAT)

REGIONAL DIRECTOR (SR)

To

- 1 M/s Dreijay Exports Private Limited
XII/164, Kuttianickel House,
Velliamattom P O, Thodupuzha, Idukki,
Kerala - 685 588
- 2 Shri Jincemon Joseph
- 3 The Registrar of Companies, Kerala
- ✓4 The Officer in Charge, e-Gov Cell, Ministry of Corporate Affairs, A-Wing, Shastrī 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)