ADJ/47/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. EASYHOUZ CONSTRUCTION SERVICES PRIVATE LIMITED

- M/s. Easyhouz Construction Services Private Limited, A V House, Edattummal Trikaripur PO, Kasaragod, Kerala – 671 310.
- 2. Shri. Naveen Kumar Maniyara

.....Applicants/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. R35953603, dated 20.03.2020 against the Adjudication Order No. ROC/S-454/10A/465/2020 dated 07.02.2020 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 11.03.2019. 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 27 days on 04.10.2019. The Registrar of Companies, Kerala examined the said default and passed the Adjudication Order No. ROC/S-454/10A/465/2020 dated 07.02.2020 (impugned Order) under Section 454 (3) & (4) of the Act, 2013 for the delay of 27 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. 27,000/- upon the Director in default viz. Shri. Naveen Kumar Maniyara @ Rs. 1,000/- per day.
- 3. The Appellant while filing the appeal have contended that the delay occurred unintentionally and that there was no alert while filing the Form SPICE-32 that the Form INC 20A needed to be filed and hence, they were not aware. Moreover, the Appellant prayed that the penalty of Rs. 77,000/- in all is too burdensome as 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 while reiterating the grounds already taken, submitted that the delay is only 27 days and the company has also suffered heavy loss of Rs. 11.64 Lakhs in its first year of operations ended on 31.03.2020. The Authorized Representative was asked to state as to when the company started commercial operations but he was not in a position to state the date of commencement. But the admitted fact is that the company did business and no specific reason other than inadvertent delay was ascribed during the hearing.
- 5. In the aforesaid circumstances and keeping in view that the delay was only 27 days, there is 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 are reduced to Rs. 10,000/- on the Company and Rs. 5,000/- for the Director. The Appellants shall pay the penalty in 30 days failing which the ROC, Kerala shall file prosecution for non-compliance of this order under Sec. 454(8) (ii) of the Companies Act, 2013.

Dated at Chennai this the 02nd day of November, 2020.



(M.R. BHAT) REGIONAL DIRECTOR (SR)

To

- M/s. Easyhouz Construction Services Private Limited, A V House, Edattummal Trikaripur PO, Kasaragod, Kerala – 671 310.
- 2. Shri. Naveen Kumar Maniyara
- 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)