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भारत सरकार
कारपोरेट कार्य मंत्रालय
कंपनी रजिस्ट्रार का कार्यालय
तमिलनाडू, कोयंबटूर
नंबर 7 ए जी टी बिजनेस पार्क फेज II, 1
फ्लोर, सिविल एरोड्रम पोस्ट, कोयंबटूर-
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GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
OFFICE OF THE REGISTRAR OF
COMPANIES
TAMILNADU – COIMBATORE
No.7 A G T BUSINESS PARK, PHASE II, 1ST
FLOOR, CIVIL AERODROME POST,
COIMBATORE - 641014

e-Mail : roc.coimbatore@mca.gov.in

Ref: ROC/CBE/ADJ/42/ 032612/2023

Date: 18.05.2023

Order for Penalty under Section 454 read with the Companies (Adjudication of Penalties) Rules, 2014 for violation of Section 42 (3) of the Companies Act, 2013 read with Rule 14(8) of the Companies (Prospectus and Allotment of Securities) Rules, 2014

IN THE MATTER OF M/s KONWERT INDIA MOTORS PRIVATE LIMITED
CIN: U31909TZ2019PTC032612

Appointment of Adjudicating Officer:

1. Ministry of Corporate Affairs vide its Gazette Notification No. A-42011/112/2014-Ad. II dated 24.3.2015 appointed undersigned as Adjudicating Officer in exercise of the powers conferred by Section 454 of the Act, 2013 (hereinafter known as Act) read with Companies (Adjudication of penalties) Rules, 2014 for adjudging penalties under the provisions of this Act.

2. Company:

Whereas M/s KONWERT INDIA MOTORS PRIVATE LIMITED having CIN: U31909TZ2019PTC032612 (Herein after to as "the Company") is company incorporated under the Companies Act, 2013, and it's having registered office address "DR No9/5, Ramaswamy Nagar, J.M Bakary, Vadavalli Bu Post, Coimbatore, Tamil Nadu, 641046, India.". The financial & other details of the subject company for immediately preceding F.Y. as available on MCA-21 portal is stated as under

Sl.No	Particulars	Details as on FY 2020-21
1.	Paid up capital	Rs.1,00,000/-
2.	Turn Over	Rs. 0/-
3.	Holding Company	No
4.	Subsidiary Company	No
5.	Whether company is startup company?	Yes

3. Facts of the case:

Adjudication Notice under Section 454 for the violations of Section 42 (3) of the Companies Act, 2013 read with Rule 14(8) of the Companies (Prospectus and Allotment of Securities) Rules, 2014 were issued vide No. ROC/CBE/ADJ/42/ 032612/2023 dated 07.03.2023 to the Company and its Two Directors in default, viz., 1.SENTHIL NICKENDRA MANIKANDAN (DIN: 08233059), 2. KRISHNAKUMAR SIVA SUBRAMANIAM (DIN: 7875830).

4. Whereas it is observed that the Company has passed the special resolution for issue of private placement on 24.04.2021 and filed the MGT-14 vide SRN T37126851 on 24.08.2021. However, the company has issued the Private placement offer letter in PAS-4 on 24.04.2021, before filing the relevant Special resolution in form MGT-14 in the registry which is resulted in violation of Section 42(3) of Companies Act 2013 read with Rule 14 (8) of the Companies (Prospectus and Allotment of Securities) Rules, 2014.

5. Provisions of the Companies Act, 2013

Sub-Section (3) of Section 42 of the Act provides that a company making private placement shall issue private placement offer and application in such form and manner as may be prescribed to identified persons, whose names and addresses are recorded by the company in such manner as may be prescribed.

6. As per Rule 14(8) (Appointment of Key Managerial Personnel) of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, a company shall issue private placement offer cum application letter only after the relevant special resolution or Board resolution has been filed in the Registry:
7. Provided that private companies shall file with the Registry copy of the Board resolution or special resolution with respect to approval under clause (c) of subsection (3) of section 179]
8. Sub-section (10) of Section 42 of the Act provides that if a company makes an offer or accepts monies in contravention of this section, the company, its promoters and Directors shall be liable for a penalty which may extend to the amount raised through the private placement or two crore rupees, whichever is lower, and the company shall also refund all monies with interest as specified in sub-section (6) to subscribers within a period of thirty days of the order imposing the penalty.
9. Section 446B of the Act begins with a non-obstande clause and provides for lesser penalties in case of OPC, Small Company, Startup companies and Producer companies which read as under, "Notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be".
10. Thus, provisions of Section 446B gives overriding effect over sub-Section (10) of Section 42 of the Act. The company, being a startup company registered in Startup India portal as well as small company as verified from the filings made by the company, the penal provisions of Section 446B of the Act, is considered for levying "penalty" for violation of Section 42 of the Act and accordingly the order is made hereunder.

11. As per Section 454 read with Rule 3(4) of the Companies Act, 2013 the reply to such notice shall be filed in electronic mode only within the period as specified in the notice. The company have not made replies to this office so far.

ORDER

12. Having considered the facts and circumstances of the case of default by company in filing the MGT-14, being a startup company registered in Startup India portal as well as small company, the Adjudicating Officer do hereby impose penalty under Section 446B of the Act on Company and its Directors cum promoters as per Table Below for violation of Section violation of Section 42(3) of Companies Act 2013 read with Rule 14 (8) of the Companies (Prospectus and Allotment of Securities) Rules, 2014.

Violation of Section	Penalty imposed on company/Directors/Promoters	Penalty under Section 446 B of the Act (Amount in Rs.)
42 (3) of the Companies Act, 2013 read with Rule 14(8) of the Companies (Prospectus and Allotment of Securities) Rules, 2014	ON COMPANY	2,00,000
	SENTHIL NICKENDRA MANIKANDAN, Director cum Promoter	1,00,000
	VENKATACHALAM RANI, Director cum Promoter	1,00,000
	Total	4,00,000

13. The Penalty imposed shall be paid through the Ministry of Corporate Affairs portal (www.mca.gov.in under Miscellaneous Fee) only, within a period of ninety days from the date of the receipt of the copy of the order.
14. Appeal, if any against this order may be filed in writing with the Regional Director, Southern Region, Ministry of Corporate Affairs, 5th floor, Shastri Bhavan, 26, Haddows Road, Chennai – 600 006 within a period of sixty days from the date of receipt of this order, in Form ADJ setting forth the grounds of appeal and shall be accompanied by a certified copy of this order (Section 454 of the Companies Act, 2013 read with the Companies (Adjudicating of Penalties) Rules, 2014).
15. Your attention is also invited to Section 454(8) of the Act regarding the consequences of non-payment of penalty.
16. In terms of the provisions of sub-Rule (9) of Rule 3 of the Companies (Adjudication of Penalties) Rules, 2014, a copy of this order is being sent to the Company and its Directors as mentioned below and Secretary to the Government of India, Ministry of Corporate Affairs, Shastri Bhavan, 5th Floor, A wing, Dr. Rajendra Prasad Road, New Delhi - 110001.

Place: Coimbatore
Dated: 18.05.2023


(C.S. GOVINDARAJAN)
(ADJUDICATING OFFICER)
REGISTRAR OF COMPANIES
TAMILNADU, COIMBATORE

To

ROC/CBE/ADJ/42/ 032612/2023

1. M/s. KONWERT INDIA MOTORS PRIVATE LIMITED,
DR No9/5, Ramaswamy Nagar
J.M Bakary, Vadavalli Bu Post
COIMBATORE, Tamil Nadu, 641046

ROC/CBE/ADJ/42/ 032612/2023

2. SENTHIL NICKENDRA MANIKANDAN, Director
9/5, MARUTHAMALAI MAIN ROAD, RAMASWAMY NAGAR,
COIMBATORE NORTH, COIMBATORE,641012, Tamil Nadu,India

ROC/CBE/ADJ/42/ 032612/2023

3. VENKATACHALAM RANI, Director
9/5 MARUTHAMALAI MAIN ROAD,
RAMASAMY NAGAR, COIMBATORE NORTH,
COIMBATORE,641046, Tamil Nadu,India