

**In the National Company Law Tribunal**

**New Delhi Bench**

**C.P No- 16/78/2017**

**In the Matter of**

**M/s Air One Aviation Private Limited**

**Order Delivered on - 27.07.2017**

**CORAM: SMT. INA MALHOTRA**

**HON'BLE MEMBER(J)**

Present- Mr. Manish Raj, CP, RoC, Delhi

Mr. Saurabh Kalia , Advocate for Petitioners.

Ms. Samridhi Gogia, Advocate for Petitioners.

**ORDER**

The petitioners have filed this application u/s 441 of the Companies Act, 2013 praying for compounding of the offence u/s 159/220 of the Companies Act, 1956, and 92/137 of the Companies Act, 2013 having defaulted in not filing the Financial statements and Annual returns of the company for the Financial years ended F.Y 31.03.2011 to

31.03.2016. The default has been made good as the company has since filed the Annual return and Balance Sheet, a fact confirmed by the RoC.

2. As per provisions of Section 159 of the Companies Act, 1956, the Annual returns of the company are required to be filed with the RoC within 60 days of holding the AGM, while under section 220 of the said Act requires filing of the Balance Sheet and the Profit and Loss Statements within 30 days of being approved at the AGM. Corresponding provisions under the 2013 Act are Sections 92 and 137. The contravention of the aforesaid provisions provide for imprisonment upto 6 months and/or with payment of fine.

3. The said petition has been routed through the office of the RoC along with their comments. There is no repudiation by the department of the applicant's assertion that all objections have been removed.

4. It is submitted by the petitioner that the said violation had occurred on account of disputes between the shareholders due to which the AGMs could not be held, giving rise to the cascading defaults under section 92 and 137 of the Act. The fine provided under Section 162 and 220(3) of the Companies Act, 1956 and Section 92 and 137 of the Companies Act, 2013 and in terms thereof, the RoC has recommended the fine as follows:-

M/s Air One Aviation Private Limited

Section	Year	Period	Days	Fine Rate	Maximum Fine
159	2010-2011	28.11.2011 to 26.02.2015	1186	500 per day	5,93,000
159	2011-2012	28.11.2012 to 26.02.2015	820	500 per day	4,10,000
159	2012-2013	28.11.2013 to 26.02.2015	455	500 per day	2,27,500
159	2013-2014	28.11.2014 to 14.02.2017	809	500 per day	4,04,500
92	2014-2015	27.11.2015 to 15.02.2017	446	Minimum=50000/- and Maximum= 500000/-	
92	2015-2016	29.11.2016 to 09.05.2017	161	Minimum=50000/- and Maximum= 500000/-	
220	2010-2011	29.10.2011 to 25.02.2015	1215	500 per day	6,07,500
220	2011-2012	29.10.2012 to 25.02.2015	849	500 per day	4,24,500
220	2012-2013	29.10.2013 to 28.02.2015	487	500 per day	2,43,500
220	2013-2014	29.10.2014 to 14.02.2017	839	500 per day	4,19,500
137	2014-2015	28.10.2015 to 14.02.2017	475	4,75,000/-	
137	2015-2016	30.10.2016 to 09.05.2017	191	1,91,000/-	

Mrs. Shashi Bal and Mr. Alok Sharma

Section	Year	Period	Days	Fine Rate	Maximum Fine
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137	2015-2016	30.10.2016 to 09.05.2017	191	Minimum= 1,00,000/- and Maximum= 5,00,000/-	

6. As the default has been made good, the petitioners/applicants prayer can be granted. This Bench however deems it sufficient to impose a fine of Rs. 5 Lakh on the company and on each of the other petitioners

for the default over the past 5 years. Accordingly, the fine imposed on the applicant is as under:-

<b>Name of Defaulter</b>	<b>Amount (in Rs.)*</b>
<b>M/s Air One Aviation Private Limited</b>	<b>Rs. 5 Lakhs</b>
<b>Mrs. Shashi Bala</b>	<b>Rs. 5 Lakhs</b>
<b>Mr. Alok Sharma</b>	<b>Rs. 5 Lakhs</b>

7. Fine imposed on the Directors/officers shall be paid out of their personal accounts.

8. Subject to the remittance of the aforesaid fine within 15 days, the offence shall stand compounded. Copy of the order be sent to the office of the RoC. Compliance Report be placed on record.

9. Petition stands disposed off in terms of the above and be consigned to Record Room.

  
(Ina Malhotra)

**Member Judicial**