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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P. No. 27/441/NCLT/AHM/2017

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

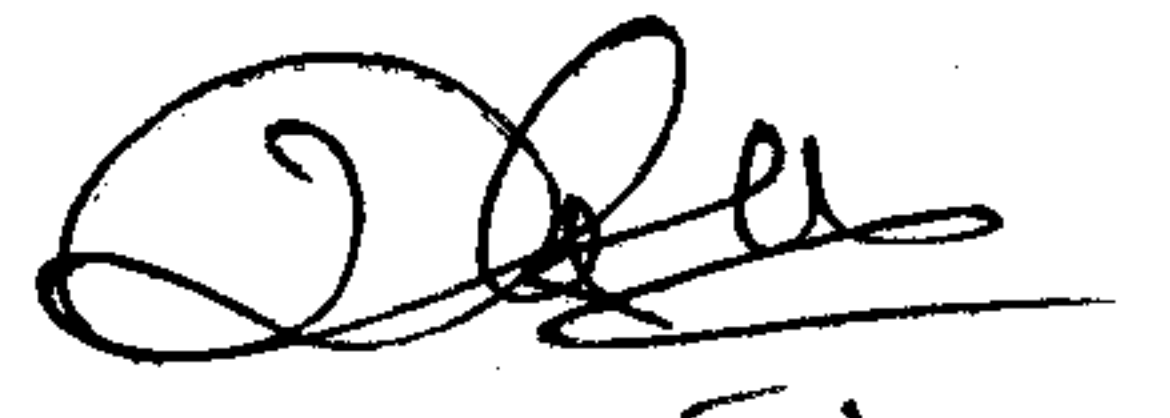
**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 30.05.2017**

Name of the Company: Rubberking Tyres India Pvt Ltd.

Section of the Companies Act: Section 441 of the Companies Act, 2013

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

1. Dhruv Raval P.C.S.




2.

ORDER

Learned PCS Mr. Dhruv Raval present for Petitioner.

Order pronounced in open Court. Vide separate sheet.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 30th day of May, 2017.

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P. No.27/441/NCLT/AHM/2017

CORAM: BIKKI RAVEENDRA BABU, MEMBER JUDICIAL

(Date: 30th day of May, 2017)

In the matter of: -

1. Rubberking Tyres India Private Limited,
(CIN: U25110GJ1988PTC010340)
Having its Registered Office at:
104, Naindhara Apartments,
Near GNFC Info Tower,
S. G. Road, Bodakdev,
Ahmedabad – 380054, Gujarat.
2. Samir Dinesh Gawarvala,
Director,
Residing at : 6, Rudraksh Bungalows,
B/h, Rajpath Club,
Near Krishna Bungalows,
Bodakdev,
Ahmedabad – 380054, Gujarat.
3. Dinesh Ishwarlal Gawarvala,
Director,
Residing at : 7, Tanmay Appt.,
Opp. Pandurang Society-3,
Judges Bungalow Road,
Bodakdev,
Ahmedabad – 380054, Gujarat.
4. Niren Dinesh Gawarvala,
Director,
7, Rudraksh Bungalows,
B/h, Rajpath Club,
Near Krishna Bungalows,
Bodakdev,
Ahmedabad – 380054, Gujarat.

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Petitioners

Appearance: -

Mr. Dhruv Raval, PCS, for the petitioners.

FINAL ORDER

(Date:30.05.2017)

1. Rubberking Tyres India Private Limited and its three directors filed an application before the Registrar of Companies, Gujarat, on 31.1.2017 admitting violation of Section 134(3)(o) of Companies Act, 2013, i.e. non-disclosure of the reasons for not spending the required

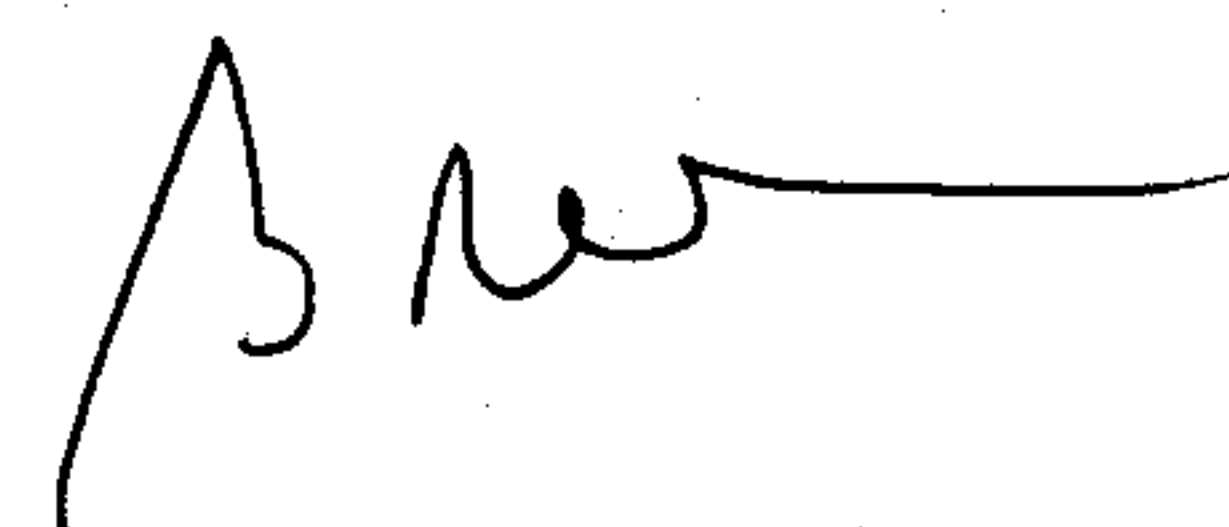


amount of CSR activities for the years 2014-15, punishable under Section 134(8) of Companies Act, 2013.

2. The Registrar of Companies forwarded the said application to this Tribunal on 13th February, 2017 along with his report. This Tribunal registered the same as C.P. No.27 of 2017. The report of the Registrar of Companies discloses that no similar offence under Section 149(4) of the Companies Act has been compounded during the last three years by the petitioners and that the company is not included in the list of vanishing companies.

3. From the records of the company and the balance sheet as at 31.3.2016, the company is liable for CSR activities. The company has neither spent the prescribed CSR expenditure nor disclosed the reasons in the report of the Director required to be filed under Section 135 of the Companies Act read with Companies (Corporate Social Responsibilities' Policy) Rules, 2014. Thereupon, the Registrar of Companies, under the instructions of the Ministry of Corporate Affairs, New Delhi, issued show cause notice to the company and its directors alleging violation of Section 134(3)(o) read with Section 135 of the Act on 30th September, 2016. Pursuant to the said notice, the company and its directors filed compounding application before the Registrar of Companies.

4. It is stated in the application as well as affidavit that the company has no knowledge of the provision of CSR activities and, by mistake, the company and its officers failed to make a mention of it in the report of the Board of Directors for the year 2016. It is also stated that the Directors of the company have been in welfare activities for the betterment of the society in their personal capacity since so many years. The Directors also undertake to spend the required consolidated amount for the years 2013-14 and 2014-15 for CSR activities.



5. Section 441 is the relevant provision that governs the procedure for compounding of offences before this Tribunal. Section 441 says that any offence punishable under the provisions of the Companies Act committed by the company or its directors or officers, if punishable with fine only may, either before or after the institution of prosecution, be compounded by the Tribunal. In view of the said section, this Tribunal is empowered to compound the offences that are punishable with fine only under the provisions of the Companies Act either before or after institution of prosecution.

6. In view of the said proviso, it is necessary to examine what is the punishment provided for violation of Section 134(3)(o), which is provided under Section 134(8) of Companies Act, 2013. Section 134(8) provides two different kinds of punishment, one for the company and the other for its officers. The punishment provided for the company is fine which shall not be less than fifty thousand rupees but which may extend to 25 lakh rupees. The punishment provided for the officer of the company, who is in default, is imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees or with both.

7. In view of the said proviso, this Tribunal has no power to compound the offence in relation to the directors of the company, i.e. petitioners 2 to 4.


8. Coming to the company, considering the explanation given in the petition and in the affidavit, this Tribunal is of the considered view that an amount of Rs.1 lakh is sufficient for compounding the violation of Section 134(3)(o) of the Act.

9. In the result, this petition is dismissed qua petitioners 2 to 4 with a direction to the Registrar of Companies to take appropriate action as per the provisions of the Companies Act and the relevant Rules. This petition is allowed qua petitioner No.1-company. The 1st petitioner company shall pay an amount of Rs.1 lakh by way of

Demand Draft drawn on any nationalised bank in favour of Pay and Accounts Office, Ministry of Corporate Affairs, Mumbai within three weeks from the date of this order and to file the original Demand Draft before the Registry of this Tribunal on or before 21st June, 2017.

10. In case the 1st petitioner-company fails to pay the amount as ordered above, the Registrar of Companies, Gujarat, Ahmedabad shall take appropriate action, including prosecution, as per applicable law under intimation to this Tribunal forthwith.

11. The petition is disposed of accordingly. Send a copy of this order to the petitioners for compliance and the Registrar of Companies. For reporting compliance of the order by the petitioners, list the matter on 4th July, 2017.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Pronounced by me in open court on
This 30th day of May, 2017.

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