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NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

C.P. No. 37/441/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 01.06.2017

Name of the Company: Haldyn Glass Ltd.

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

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Ashish C. Doshi	PCS	Applicants	
2.				

ORDER

Learned PCS Mr. Ashish Doshi present for Petitioner.

Order pronounced in open Court. Vide separate sheet.

1.6.17

BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 1st day of June, 2017.

NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

C.P. No.37/441/NCLT/AHM/2017

CORAM: BIKKI RAVEENDRA BABU, MEMBER JUDICIAL

(Date: 1st day of June, 2017)

In the matter of :-

1. Tarun Narendra Shetty,
Managing Director,
M/s Haldyn Glass Limited,
12-B, Balmoral,
7, Mount Mary Road,
Bandra West,
Mumbai – 400050.

2. Narendra Dejoo Shetty,
Whole Time Director,
M/s Haldyn Glass Limited,
12-B, Balmoral,
7, Mount Mary Road,
Bandra West,
Mumbai – 400050.

3. Ganesh Prasad Chaturvedi,
Chief Financial Officer,
M/s Haldyn Glass Limited,
A-1505, Vishnu Shivam Tower,
Thakur Village,
Kandivali (East),
Mumbai – 400101.

4. Anwar Abdulla Lambay,
Company Secretary,
M/s Haldyn Glass Limited,
Ascon Acres 4, Naya Nagar,
Mira Road (E), Thane,
Maharashtra – 401107. ... Petitioners

Appearance: -

Mr. Ashish Doshi, PCS, for the petitioners.

FINAL ORDER
(Date:01.06.2017)

1. The petitioners, who are Managing Director, Whole Time Director, Chief Financial Officer and Company Secretary of M/s Haldyn Glass Limited, filed an application before the Registrar of Companies under Section 441 of the Companies Act, 2013, admitting

the violation of provisions of Section 211(1) read with Schedule VI of the Companies Act, 1956 (corresponding section 129 of Companies Act, 2013).

2. The Registrar of Companies, by his report dated 13th January, 2017, forwarded the said application to this Tribunal. This Tribunal registered the same as C.P. No.37 of 2017. The report of the Registrar of Companies discloses that no similar offence under Section 211 read with Schedule VI of the Companies Act, 1956 (corresponding Section 129 of Companies Act, 2013) has been compounded during the last three years by the petitioners.

3. The period of default in this case is for the years ended 31.3.2014 and 31.3.2015. The corresponding section to Section 211 of the Companies Act, 1956 is Section129 of the Companies Act, 2013. Section 129 of Companies Act, 2013 came into force with effect from 1.4.2014. In this case, the period of default for the year ended on 31.3.2014 is covered by Section 211 of Companies Act, 1956, whereas the default for the year ended on 31.3.2015 is covered by Section 129 of the new Act.

4. According to the Registrar of Companies, the financial statements of the company do not give true and fair view as required under Section 211 of the Companies Act, 1956. Therefore, there is violation of Section 211(1) of the Act.

5. For the violation of Section 211 of Companies Act, 1956, the punishment provided is imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

6. For the violation of Section 129 of the Companies Act, 2013, the punishment provided is imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees or with both.

7. So far as the violation, in respect of financial year ending on 31.3.2014, is concerned, Section 211 of the Companies Act, 1956 is applicable whereas for the violation in respect of financial year ending on 31.3.2015, Section 129(7) of the Companies Act, 2013 is applicable.

8. Considering the default period, for the violation of Section 211 of the Companies Act, 1956, this Tribunal has to follow Section 621A of the Act. Section 621A of the Companies Act, 1956 says that the Tribunal is empowered to compound the offence punishable with imprisonment or with fine or with both.

9. Therefore, this Tribunal, taking into consideration the period of default, applying Section 621A of the Act, can compound the violation of Section 211.

10. Section 441 of the Companies Act, 2013 says that the Tribunal is empowered to compound the offences under the Companies Act which are punishable with fine only. Therefore, the violation of Section 129 of the Companies Act relating to financial year ending on 31.3.2015 cannot be compounded by this Tribunal.

11. It is stated by the petitioners that the violation was unintentional and it was not wilful default and there was no fraudulent intention or improper motive.

12. Considering the submissions in the petition and the provisions of the Companies Act, this Tribunal is of the considered view that the offence under Section 211 of the Companies Act, 1956 can be compounded for the financial year ended on 31.3.2014 by directing the petitioners to pay Rs. 10,000/- each. In view of Section 441 of the Companies Act, 2013, this Tribunal has no power to compound the offence for the violation of Section 129 of the Companies Act, 2013 for the financial year ended on 31.3.2015.

13. In the result, this petition is partly allowed by permitting the petitioners to compound the violation of Section 211 of the Companies Act,1956, on payment of Rs.10,000/- each, in respect of financial year ended on 31.3.2014, 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 23rd June, 2017. Compounding amount payable by petitioners no. 1 to 4 is Rs. 10,000/- each. In respect of the violation for the financial year ended on 31.3.2015, the Registrar of Companies is directed to take appropriate steps as per the provisions of the Companies Act.

14. In case the petitioners fail to pay the amount as ordered above, the Registrar of Companies, Gujarat, Ahmedabad shall take appropriate action, including prosecution of the petitioners, as per applicable law under intimation to this Tribunal forthwith.

15. 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 13th July, 2017.

1.6.17

BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Pronounced by me in open court on
This 1st day of June, 2017.

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