

In the National Company Law Tribunal
New Delhi Bench

CP. No- 99/441/ND/2018

In the Matter of
Chetanya Buildcon Private Limited

Vs

RoC

Order Delivered on - 29.08.2018

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)

SMT. DEEPA KRISHAN, HON'BLE MEMBER (T)

PRESENT- Mr. Harsh Sethi and Mr. Animesh Gaba, Advocates

ORDER

Per Ms. Ina Malhotra (Member Judicial)

This petition has been filed u/s 441 of the Companies Act, 2013 praying for compounding of the offence u/s 148 of the Companies Act. As per Statutory requirements, the company was required to file the copy of the Cost Audit Report prepared in pursuance of directions under sub section 6 of the said section. The said period of default is for the Financial years 2014-2015.

As per the provision of Section 148 (6) of the Companies Act, 2013:

"A company shall within thirty days from the date of receipt of a copy of cost audit report prepared in pursuance of a direction under sub-section (2)

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furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.”

2. Further as per requirements of sub section (8) of section 148 of Companies Act, 2013, “*If any default is made in complying with the provisions of this section—*

(a) the company and every officer of the company who is in default shall be punishable in the manner as provided in sub-section (1) of section 147.

(b) the cost auditor of the company who is in default shall be punishable in the manner as provided in sub-section (2) to (4) of section 147”.

3. On prosecution being initiated in the court of the Ld. ACMM (Spl. Acts) Tis Hazari Delhi, permission has been taken by the applicant to pray for compounding.

4. The applicants ^{have} submitted that the default has since been made good as the company has filed its cost audit report for the financial year ending 31st March, 2015 on 05.05.2017 by CRA-4 E form via SRN No. G42842732.

5. The aforesaid offence is punishable u/s 147 of the Companies Act, whereby the Company is punishable with a fine which may extend to Rs. 5,00,000/- and every officer who is in default shall be punishable with imprisonment for a term which may extend to 1 year or with fine which may extend to Rs. 1,00,000/- or with both.

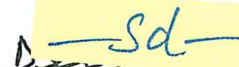
Accordingly, RoC has recommended the fine of Rs.5,00,000/- on the company and of Rs. 1,00,000/- on the other three applicants.


6. Since the default has been made good, the petitioners/applicants' prayer can be granted. For imposing fines while compounding offences, various parameters are to be borne in mind. As it is submitted that the

default was inadvertent and has not caused any prejudice to the interest of the company, it would be just and fair to impose a fine as under:

For	Amount (Rs.)
M/s Chetanya Buildcon Private Limited	Rs. 1,00,000/-
Mr. Vinod Saluja	Rs. 25,000/-
Mr. Ankush Saluja	Rs. 25,000/-
Ms. Archana Saluja	Rs. 25,000/-

7. Subject to the remittance of the aforesaid fine, the offence shall stand compounded. For compliance within six weeks.
8. Fine levied on the directors shall be paid out of their personal accounts.
9. Petition stands disposed off in terms of the above.


Deepa Krishan
Member (T)


Ina Malhotra
Member (J)