

NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

16/147/2016

CORAM:

**PRESENT: MS. INA MALHOTRA
HON'BLE MEMBER (J)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW DELHI
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 30.08.2018.**

NAME OF THE COMPANY: M/s. Cinepolis India Pvt. Ltd.

SECTION OF THE COMPANIES ACT: 73(4)

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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Present: Advocate for the Petitioner.

Advocate for the Respondent.

ORDER

Reserve for Orders.


(Ina Malhotra)
Member (J)

In the National Company Law Tribunal
New Delhi Bench

C.P No- 16/147/2016

In the Matter of
M/s. Cinepolis India Private Limited

Order Delivered on -31.08.2018

CORAM:

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

ORDER

The petitioner has filed this application u/s 441 of the Companies Act, 2013/621A of the Companies Act, 1956 praying for compounding of the offence u/s 159, 166, 210(3) and 220 of the Companies Act, 1956 for non compliance of the Statutory requirements under the Act. As per allegations of the RoC, the Company M/s. Cinepolis India Pvt. Ltd. failed to hold its AGM for F.Y 2013-2014 (a delay of 364 days) within the prescribed time giving rise to other consequential defaults of filing Annual Returns and the Balance Sheets on time. It is submitted that the AGM could finally be convened on 29.09.2014 for adoption of the Financial Statements. The Annual Returns and the Balance Sheet were filed on 15.10.2015 and 30.09.2015 respectively, a fact confirmed by the RoC.

2. As per provisions of the Companies Act, 1956, Every Company is required to convene its AGM within 6 months of the close of the Financial Year. The Balance Sheet and Profit and Loss Statement, are to be adopted.

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Steps for filing the same with the RoC are required to be taken within 30 days of holding the AGM, while the Annual Returns are to be filed within 60 days thereof.

3. It is submitted by the applicant that the reason for the delay was subject to legal proceedings before Hon'ble Company Law Board in C.P No. 67/ND/13 in the matter of Sec 397/398 between Mr. Deepak Marda V. M/s Cinepolis India Private Limited & Ors, whereby the company was required to maintain status quo and the proceeding was pending due to management disputes and unforeseen and unavoidable circumstances, the appellant company was not in position to convene the AGM and Board Meeting within the prescribed time .

4. In the report filed by the office of the RoC, they have recommended the fine as under :-

S. No	Name of the Applicants	Sections	Period	Days	Fine Rate	Total Amount
1.	M/s Cinepolis India Private Limited	166	01.10.2013-	364	50000/-	9,57,500/-
		210	29.09.2014	364	+2500/- per day	10,000/-
		159	30.09.2013-	684	10,000/-	3,42,000/-
		220	29.09.2014	698	500 per day	3,49,000/-
			30.11.2013-			
			15.10.2015			
			31.10.2013-		500 per	
			30.09.2015		day	

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	TOTAL					Rs. 16,58,500/-
2.	Javier Sotomayor De Zavaleta	166 210 159 220	01.10.2013-29.09.2014 30.09.2013-29.09.2014 30.11.2013-15.10.2015 31.10.2013-30.09.2015	364 364 684 698	50000/- +2500/- per day 10,000/- 500 per day 500 per day	9,57,500/- 10,000/- 3,42,000/- 3,49,000/-
	TOTAL					Rs. 16,58,500/-
3.	Miguel Mier Espara	166 210 159 220	01.10.2013-29.09.2014 30.09.2013-29.09.2014 30.11.2013-15.10.2015 31.10.2013-30.09.2015	364 364 684 698	50000/- +2500/- per day 10,000/- 500 per day 500 per day	9,57,500/- 10,000/- 3,42,000/- 3,49,000/-
	TOTAL					Rs. 16,58,500/-
4.	Alejandro Ramirez Magana	166 210 159 220	01.10.2013-29.09.2014 30.09.2013-29.09.2014 30.11.2013-15.10.2015 31.10.2013-30.09.2015	364 364 684 698	50000/- +2500/- per day 10,000/- 500 per day 500 per day	9,57,500/- 10,000/- 3,42,000/- 3,49,000/-
	TOTAL					Rs. 16,58,500/-




5.	Mauricio Vaca Tavera	166	01.10.2013- 29.09.2014	364	50000/- +2500/- per day	9,57,500/- 10,000/-
		210	30.09.2013- 29.09.2014	364	10,000/-	3,42,000/-
		159	30.11.2013- 15.10.2015	684	500 per day	3,49,000/-
		220	31.10.2013- 30.09.2015	698	500 per day	
TOTAL						Rs. 16,58,500/-

5. As the default has been made good, there is no legal impediment in granting the prayer of the petitioner for composition of the offence. In terms of the guidelines laid down by the Hon'ble NCLAT, and after considering various factors like the period of default, gravity of offence etc, this Bench deems it just and equitable to impose a composite fine under Section 166, 210, 159 and 220 of the Companies Act, 1956 as under:-

Name of the Applicant	Amount
M/s Cinapolis India Private Limited	Rs. 3.5 Lakhs
Javier Sotomayor De Zavaleta	Rs. 3.5 Lakhs
Miguel Mier Espara	Rs. 3.5 Lakhs
Alejandro Ramirez Magana	Rs. 3.5 Lakhs
Mauricio Vaca Tavera	Rs. 3.5 Lakhs

6. Fine imposed on the Directors shall be paid out of their personal accounts.
7. Subject to the remittance of the aforesaid fine within 30 days, the offence shall stand compounded. Copy of the order be sent to the office of the RoC. Compliance Report be placed on record.
8. Petition stands disposed off in terms of the above and be consigned to Record Room.


Ina Malhotra
Member (J)
