

In the National Company Law Tribunal

New Delhi Bench

CP No. 85/441/ND/2018

In the matter of

M/s Inmarsat India Private Limited

Vs

RoC

CORAM

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

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

PETITIONER- Mr. Rudra Shankar Srivastava, Mr. Bhanu Harish and Ms. Arushi Gupta, Advocates

RESPONDENT- Ms. Kusum Yadav, CP, ROC

Order Delivered on- 10.09.2018

ORDER

Per Ms. Ina Malhotra (Member Judicial)

The petitioner, Mr. Gautam Sharma 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 139 of the Companies Act, 2013. As per the allegations of the ROC, the company failed to appoint the Auditor for the financial year 2015-16. The default has since been rectified as an Auditor is now appointed on 02.06.2016.

2. As per the provisions of section 139(6) of the Companies Act,2013:

“the first auditor of the company, other than a Government company shall be appointed by the Board of Directors within thirty days from the date of

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registration of the company and in the case of failure of the Board to appoint such auditor, it shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor shall hold office till the conclusion of the first annual general meeting:"

3. It is submitted by the applicant company that the efforts were made for the appointment of the first Auditor of the company, despite all efforts, the Board of Directors were unable to find a suitable candidate for the company within the stipulated period i.e before 14.06.2015. The period of default is for the financial year 2015-16 i.e from 15.06.2015 to 01.06.2016 (352 days).

4. 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

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 of **Rs. 20,000/-** On the applicant, Mr. Gautam Sharma.

6. Fine imposed on the Directors shall be paid out of his personal accounts.

7. Subject to the remittance of the aforesaid fine, the offence shall stand compounded. For compliance within 30 days.

8. Petition stands disposed off in terms of the above.



Deepa Krishan

Member (T)



Ina Malhotra

Member (J)