

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

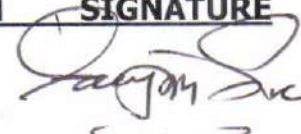
C. P. NO. 16/11/2016
CA. NO.

PRESENT: SMT. INA MALHOTRA
Hon'ble Member (J)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 15.09.2016**

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

SECTION OF THE COMPANIES ACT: 621A

<u>S.NO.</u>	<u>NAME</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	SANJAY GROVER		PCE / DDA	

ORDER

This petition has been filed u/s 621A of the Companies Act, 1956 praying for compounding of the offence u/s 217(2A) of the Companies Act. It is submitted that upon a technical scrutiny of the Balance Sheet for the financial year ending 31.03.2010, carried out by the office of the RoC, it was observed that the company had not disclosed in the Board Report dated 15.11.2010, whether any employee was a relative of any Director or Manager of the company. The Annexure to the Balance Sheet and Profit & Loss Statement which formed a part of Board's Report was also not signed by the required number of directors as per statutory requirement.

Contd/-.....

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2. As per the provision of Section 217(2A) of the Companies Act, 1956:

"(a) The Board's report shall also include a statement showing the name of every employee of the company who-

(i) if employed throughout the financial year, was in receipt of remuneration for that year which, in the aggregate, was not less than (such sum as may be prescribed); or

(ii) if employed for a part of the financial year, was in receipt of remuneration for any part of that year, at a rate which, in the aggregate, was not less than (such sum per month as may be prescribed; or)

(iii) if employed throughout the financial year or part thereof, was in receipt of remuneration in that a year which, in the aggregate, or as the case may be, at a rate which, in the aggregate, is in excess of that drawn by the managing director or whole-time director or manager and holds by himself or along with his spouse and dependent children, not less than two per cent, of the equity shares of the company.)

(b) The statement referred to in clause (a) shall also indicate-

(i) whether any such employee is a relative of any director or manager of the company and if so, the name of such director, and

(ii) such other particulars as may be prescribed."

3. The period of default has been observed for the financial years ending 31.03.2002 to 31.03.2011. Prosecution has been initiated against the petitioners. The aforesaid

offence attracts a punishment of imprisonment for a term which may extend to six months or with fine which may extend to Rs.20, 000/- or with both.


4. In the report filed by the RoC, the default has been made good. The maximum fine of Rs.20,000/- for each year's default is recommended against each of the two petitioners/directors viz Mr. Parampaul Uberoi and Mr. Govindan Gopi Nambiar for 10 years of default i.e a fine of Rs.2 lakhs on each of the petitioners.

5. The petitioners in the present application seek compounding of the offence without contesting the accusation made by the office of the RoC, though it was submitted that in the Board Report dated 15.11.2011, none of the employees whose names appeared in the annexed statement were related to any Director or Manager and therefore there was no such requirement to indicate the same. Also the said Balance Sheet was signed by the two petitioners/Directors, though due to inadvertence the term "authorized signatory" was used instead of the term "Directors". The petitioners also submit that the default was neither wilful nor wanton. The default is stated to have been made good.

6. Given the facts of the case and that there is no legal impediment in compounding this offence, the petitioner/applicants' prayer can be granted. As the error is a technical default, which was neither deliberate or malafide, nor did it cause any financial loss or was prejudicial to the rights of the shareholders, this Bench deems it sufficient to impose an aggregate fine of Rs.1,00,000/- on each of the defaulting parties. Accordingly, fine is imposed as under:

For	Amount (Rs.)
Mr. Parampaul Uberoi	1,00,000/-
Mr. Govindan Gopi Nambiar	1,00,000/-

7. Subject to the remittance of the aforesaid fine within two weeks, the offence shall stand compounded. Compliance be filed with the Bench Officer to be communicated to the RoC for appropriate steps before the prosecuting authority in this case.
8. Petition disposed off in terms of the above.


(Ina Malhotra)
Member Judicial