

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
"CHANDIGARH BENCH, CHANDIGARH"**

**CP No.39/Chd/Hry/2018**

**Under Section 441 of the Companies Act, 2013  
read with Section 220 of the Companies Act 1956.**

**In the matter of:**

1. Naganadu Power Private Ltd.  
having its registered office at  
House No.8/21, Lane No.8,  
Rajiv Colony, Near Railway Line,  
Barahm Nagar, Hansi Road,  
Karnal, Haryana-132 001 ...Petitioner No.1
2. Arumugam Dakshinamoorthy,  
Director of Petitioner No.1 Company.  
(DIN: 02263312)
3. Raju Jagubhai Parmar,  
Director of Petitioner No.1 Company.  
(DIN: 05205229)

Vs.

Registrar of Companies,  
NCT of Delhi & Haryana,  
New Delhi. ...Respondent

**Judgement delivered on 20.04.2018**

**Coram: Hon'ble Mr.Justice R.P. Nagrath, Member (Judicial)  
Hon'ble Mr.Pradeep R. Sethi, Member (Technical)**

For the Petitioner : Mr. Pankaj Nigam, Practising  
Company Secretary.  
For the Respondent : Mr. M.S.Pachouri, Registrar of Companies,  
Punjab & Chandigarh for ROC, NCT of Delhi  
and Haryana.

**Per: R.P. Nagrath, Member (Judicial)**

**JUDGEMENT (Oral)**

This petition has been filed in Form No.1 as prescribed in the National Company Law Tribunal Rules, 2016 under Section 441 of the Companies Act, 2013 (for short to be referred hereinafter as the 'Act') read with Section 220 of the Companies Act, 1956 by M/s Naganadu Power Private Ltd. and its two directors for commission of offence for violation of the requirement of Section 220 of the Companies Act, 1956 (for short to be referred hereinafter as '1956 Act').

2. Petitioner No.1 company was incorporated on 09.03.2011 under the 1956 Act, having its registered office at Karnal in the State of Haryana and therefore, the matter falls within the territorial jurisdiction of this Tribunal. Annexure-3 is copy of the Certificate of Incorporation vide which the name of the company was changed to its present name. The latest Certificate was issued by the Registrar of Companies, NCT of New Delhi and Haryana on 11.04.2012. The original Certificate of Incorporation has also been annexed. With this document Memorandum and Articles of Association of the company have also been filed. The Company has authorised share capital of ₹2,55,00,000/- with paid-up share capital of ₹2,53,09,750/-.

3. The main objects of the company are to carry on, promote, collaborate in and assist in India and elsewhere any business of development of power projects of all kinds, including conventional and non-conventional power, solar power, hydel power, geothermal power, tidal power, wave power, motive power, power generated from solar photo voltaics, power generated from concentrated solar photo voltaics, solar thermal power, concentrated solar thermal power, and or other solar technologies in any form, or electricity and electrical energy in any form and by any process and in any fuels, derivatives or by-products relating to generation,

production, trading, distribution, renovation, modernisation, rehabilitation, operation, and maintenance or otherwise of power projects, activities which lead to the reduction of green house gases by the creation of emission reductions, whether called Certified Emission Reductions Verified, Emission Reduction or by any other name known and to carry out any project set up with this objective including but not limited to collecting information and data making evaluation and submitting reports on the feasibility of new projects and/or improvements to and or expansion of existing projects, conducting techno economic feasibility studies, preparing project reports, forecasts, surveys, and rehabilitation packages, undertaking competitive bidding for potential projects and/or existing projects negotiating with Government/State Electricity Boards/distribution utilities. State or local Government, private parties, regulatory, statutory or administrative authority, agency or commission, or other such body (ies)/entity (ies), undertaking negotiation with lenders for financing of such projects, obtaining the relevant approvals, and to do all acts and things necessary or required for doing the aforesaid business etc.

4. The version of the petitioner-company is that it held its Annual General Meeting for the Financial Year 2012-13 on the due date i.e. 30.09.2013 and was required to file Balance Sheet and Profit and Loss Account with the Registrar of Companies within a period of 30 days from the date on which the Balance Sheet and Profit and Loss Account were laid before the Annual General Meeting. These documents were filed by the petitioner-company with the Registrar of Companies on 23.10.2016 with a delay of 1090 days and thereby violated the provisions of Section 220(1) of 1956 Act which is punishable under Section 220(3) of the said Act. Annexure-1 is the copy of resolution of the Board of Directors of the company dated 06.02.2017 authorising petitioners No.2 and 3 to file the petition before this Tribunal

and to do all such acts, deeds and things as may be required for the progress of the petition to be filed under Section 441 of the Companies Act, 2013. The contents of the petition are supported by the affidavit of petitioner No.2. There is another resolution dated 06.02.2017 at Annexure-2 whereby Pankaj Kumar Nigam, Practising Company Secretary to represent the petitioners before this Tribunal.

5. Notice of this petition was issued to the Registrar of Companies, NCT of Delhi and Haryana and report has been filed.

6. We have heard the authorised representative for the petitioners and the Registrar of Companies, Punjab and Chandigarh representing the Registrar of Companies, NCT of Delhi and Haryana. It is stated that petitioners No.2 and 3 are the Directors of the company. It is reported that the company otherwise has filed Balance Sheet and Annual Return for the Financial Year 2012-13 on 25.10.2016. Further the petitioner-company has filed the Balance Sheet and Annual Return up to the year ending 31.03.2016. The authorised representative for the petitioner has also handed over the latest Master Data of the petitioner-company showing that the Balance Sheets have since been filed up to 31.03.2017. The same be taken on record.

7. Section 220 (1) of the 1956 Act says that the Balance Sheets and Profit and Loss Statement are required to be filed within 30 days of the holding of the Annual General Meeting. As per sub-section (3) of Section 220 if the default is made in complying with the requirements of sub-sections (1) and (2), the company, and every officer of the company who is in default, shall be liable to the like punishment as is provided by Section 162 for a default in complying with the provisions of Sections 159 to 161 of the Act. As per Section 162 of the Act the company and every officer or the company who is in default, shall be punishable with fine which may extend to ₹500/-

for every day during which the default continues. The Registrar of Companies has calculated the maximum amount of penalty that can be imposed for the violation with regard to 1090 days of the delay to be ₹5,45,000/- for the company and for both the directors each. From the record it is apparent that the company is not carrying on business or shows that the equity and liabilities of the company are NIL.

8. Even for the latest Financial Year ending on 31.03.2017 Balance Sheet and Financial Statement have been handed over by the petitioner. The same be taken on record. This financial statement also shows that the revenue from operations remained NIL.

9. The authorised representative for the petitioner further submitted that lenient view may be taken because of the aforesaid circumstances and the default being in respect of only one Financial Year. It is further submitted that in the year 2016 the company had applied to the Registrar of Companies, NCT of Delhi and Haryana for striking off its name but the Balance Sheet for the year in question had not been filed. That application has thus not been disposed of. Therefore, the petitioner has filed *suo motu* petition before this Tribunal for composition of the offence.

10. It is pointed out by the Registrar of Companies that since the violation pertains to the year 2012-13, the provisions of Companies Act, 1956 would be applicable. So the provisions of Section 621A of the Companies Act, 1956 would be attracted for the composition of offences. This petition has been filed in terms of Section 441 of the Companies Act, 2013 because the Companies Act, 1956 has since been repealed. The Registrar of Companies has also considered the penalty provided under the Companies Act, 1956 for calculation of maximum amount of penalty.

11. Looking into the aforesaid facts and taking lenient view the petition for composition of offence is allowed subject to deposit of ₹1,00,000/- by the petitioner-company and ₹50,000/- by petitioner Nos.2 and 3 each. It is directed that the petitioners No.2 and 3 shall deposit the amount of composition fee with the Pay & Accounts Officer, Central Government, Ministry of Corporate Affairs, New Delhi from their own pocket and not from the account of the company. The aforesaid amounts be deposited by petitioner No.1 company and petitioner Nos. 2 and 3 within two weeks from the date of receipt of certified copy of this order.

Copy of the order be communicated to the petitioner as well as to Registrar of Companies, NCT of Delhi and Haryana.

Sd/-

(Pradeep R.Sethi)  
Member (Technical)

Sd/-

(Justice R.P.Nagrath)  
Member(Judicial)

April 20, 2018  
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