

**IN THE NATIONAL COMPANY LAW TRIBUNAL
SINGLE BENCH, CHENNAI**

CA/1096/CB/2018

Under Section 441 of the Companies Act, 2013

In the matter of

M/s. Chettinad Earth Movers Private Limited

... Applicants

Order delivered on 04.10.2018

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Applicant(s): Mr. I.B. Harikrishna, PCS

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under consideration is CA/1096/2018 which has been filed by the Applicants before this Bench, under Section 441 of the Companies Act, 2013, for compounding of the offences committed under Section 135 r.w. Section 134(3)(o) of the Companies Act, 2013. The Deputy Registrar of Companies has forwarded a Report on the Application, stating therein

that it is the first offence and no prosecution is pending against the Applicants.

2. The first Applicant is the Company and other two applicants viz. Mr. Mr.Subramanian Vaithilingam and Mr. Mr. Subbiah Muthuvel are its Officers in default, who have filed E-form No.GNL-1 under SRN: G92700087 for violation of the provisions of Section 135 r.w. Section 134(3)(o) of the Companies Act, 2013, before the Dy. Registrar of Companies, Chennai. The offence arose when the Company and its Officers failed to disclose the details about the policy developed and implementation by the Company on Corporate Social Responsibility initiatives taken during the years 2014-2015, in the reports of the Board of its Directors.
3. The Applicants submit that the Company was in its initial stages of implementing its CSR policies, the management was of the view that the disclosure required to be made u/s 134 (3) (o) read with section

135 (2) of the Companies Act, 2013 is not mandatory and inadvertently missed out to give the required disclosures under the said section in the Board's Report pertaining to the financial year ended 31.03.2015. Hence, the Company and its Officers who are in default have violated the provisions of Section 134(3)(o) r.w. Section 135 of the Companies Act, 2013, which is punishable under Section 134(8) of the Companies Act, 2013. The said offence is not intentional and it is not prejudicial to the interest of the shareholders or the creditors.

4. The provisions of Section 134(8) of the Companies Act, 2013, provide that the Company shall be punishable with fine which shall not be less than fifty thousand rupees but which extend to twenty-five lakhs rupees, and every officer of the Company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both. ✓

5. In the light of the above, the Applicants i.e., Company and its two Officers, as mentioned above, are liable to be penalized under Section 134(8) of the Companies Act, 2013, for violation of the provisions of Section 134(3)(o) r.w. Section 135 of the Companies Act, 2013.
6. The Applicants pleaded for taking lenient view on the ground that this is the first offence, which has been confirmed by the concerned RoC. Therefore, the Application of the Company and its Officers in default is allowed and the offence is compounded in exercise of the powers conferred under Section 441, by imposing a fine under Section 134(8) of the Companies Act, 2013, to the tune of Rs. 1,50,000/- i.e. Rs. 50,000 on each- the Company, and its two Officers, who are in default viz., (1) Mr.Subramanian Vaithilingam (Director) (2) Mr. Subbiah Muthuvel (Director). The Company is directed to pay the penalty from its accounts but the two officers in default shall pay the penalty from their own

resources. The Applicants shall comply with the Order within three weeks from the date, the Order is uploaded on the website of the NCLT. The Company is directed to file a copy of this Order along with the required Form with the Registrar of Companies, Chennai, within the time prescribed.

7. Accordingly, the Application is disposed of. **The certified copy of this Order shall not be issued to the Applicants unless the amount of fine is deposited, as per the procedure prescribed.**


(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

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