

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

CA/765/(441)/2018

Under Section 441 read with Section 92(4) of the Companies Act,
2013

In the matter of

M/s. JANAYUGAM PUBLICATIONS LIMITED

- 1) M/s. Janayugam Publications Limited
- 2) Mr. Binu Vancheethara Bhaskaran

...Petitioners

Versus

ROC, Ernakulam

...Respondent

Order delivered on 17.09.2018

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**K. ANANTHA PADMANABHA SWAMY, MEMBER (J)
S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the applicants : Shri. Hari Krishnan, PCS

ORDER

Per: S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

1. Under consideration is an Application filed by Petitioners before the Registrar of Companies, Ernakulam, for compounding of the offences committed under Section 92(4) of the Companies Act, 2013. The Registrar of Companies, along with his Report dated 21.05.2018, has forwarded the Application to the Registry of this Bench, which has been

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numbered as **CP/CA/765/(441)/2018**.

2. The following reliefs are sought by the petitioners

- i) *In view of the fact that the petitioners desires to get the default committed compounded reveals the intention of the petitioners to comply with the prevailing law and the petitioners hereby submit that the delay in filling of the Annual Return in the manner prescribed u/s 92(4) of the Companies Act, 2013 be condoned with a levy of just a token compounding fees.*
- ii) *That such other order may be passed as in the premises of the Honorable Bench may deem fit.*

3. The report filed by the registrar of companies has made submissions stating that the offence is with respect to delay of 476 days in filing the Annual Return for the FY ending 31.03.2015; the Company and its Director have filed e-Form MGT-7 dated 20.03.2017 for violation of or Contravention of Section 92(4) of the Companies Act, 2013.

- i. As per section 92(4) of the Companies Act, 2013 every company having a share capital shall file with the Registrar a copy of the Annual Return within 60 days from the day on which each of the Annual General Meeting is held or where no Annual General

Meeting is held in any year within 60 days from the date on which the Annual General Meeting should have been held together with the statement specifying the reasons for not holding the Annual General Meeting with such fees or additional fees as may be prescribed within the time specified under section 403. As per the said provision Annual Return for the FY ending 31.03.2015 ought to have been filed by the company with the ROC, Kerala on or before 29.11.2015. As per section 92(5) r/w Section 2(60) of the Companies Act, 2013, Company and Officer in default are liable for said non-compliance. Prosecution case vide No.ST 1471/16 was filed on 08.11.2016. During the pendency of the case Annual Return in e-form MGT-7 of the Company for the FY ending 31.03.2015 has been filed with the ROC, Kerala on 20.03.2017.

- ii. Prosecution case was filed in S.T. No. 1471/2016 before the Hon'ble Additional Chief Judicial Magistrate (EO) Court, Ernakulam against the company M/s.Janayugam Publications Limited as the

1st accused, Sri. Binu Vancheethara Bhaskaran, Director of the Company as the 2nd accused, Shri.Rajendran Nair P Nair, Director of the Company as the 3rd accused, Sri. Venugopalan Nair, Director of the Company as the 4th accused, Sri.Sureshraj Kottarapatta, Director of the Company as the 5th accused, Sri.Thilothaman, Director of the Company as 6th accused, Shri.Sasankan Iruppan Veedu, Director of the Company as the 7th accused, Shri. Prakash Babu Krishna Pillai, Director of the Company as the 8th accused and Shri.Koonath Prabhakaran Rajendran, Director of the Company as the 9th accused for non filing of Annual Return under section 92(4) of the Companies Act, 2013 for the FY ended 31.03.2015.

- iii. The Annual Return for 31.03.2015 had to be filed on or before 29.11.2015. The default made good by filing Annual return on 20.03.2017, thereby resulting a delay of 476 days.
- iv. As per the signatory information maintained by the ROC, Kerala at the time of filing prosecution only

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ordinary directors in its Board, all the 8 Directors of the Company were issued with Show Cause Notice on 08.06.2016 and were arrayed as accused being Officer in default as per Section 2(60) in the Prosecution Case ST No.1471/16.

- v. The compounding Application was preferred on 12.10.2017 by the Company and Shri.Binu Vancheethara Bhaskaran claiming that he is the Officer in default as per section 2(60). In view of this clarification was sought by the Registrar of Companies, Kerala vide letter dated 09.11.2017 to point out the discrepancy and requested for resubmission of the same. As per the clarification letter dated 30.11.2017, the application was re-submitted reiterating that Shri.Binu Vancheethara Bhaskaran is the officer in default as per resolution of Board of Directors of the Company dated 03.12.2013. Form GNL-3 in this respect was filed by the Company on 30.11.2017.

5. As per Section 92(5) of the Companies Act, 2013 the Company shall be punishable with fine

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which shall not be less than fifty thousand rupees but which may extend to 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 6 months or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.

6. The fine imposed is as follows;

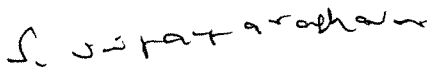
| Name of the Applicant | Amount of fine for the period per Companies Act, 2013 | Fine Imposed by this Tribunal |
|-------------------------------------|--|--------------------------------------|
| M/s. Janayugam Publications Limited | Fine not less than Rs.50,000 extendable up to Rs.5,00,000/- | Rs.1,00,000/- |
| Mr.Binu Vancheethara Bhaskaran | Imprisonment for a term which may extend to 6 months or fine not less than Rs.50,000 extendable up to Rs.5,00,000/- or both. | Rs.60,000/- |

7. It is directed to the officer in default that he shall pay the penalty from his own resources. The

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Petitioners shall comply with the order within three weeks from the date on which the order is uploaded on the website of NCLT. The petitioners are directed to file a copy of this order along with the required form with the Registrar of Companies, Ernakulam, within the time prescribed.

Accordingly, the application **CP/CA/765/(441)/2018** stands disposed of.



(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)



(K.ANANTHA PADMANABHA SWAMY)
MEMBER (JUDICIAL)

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