

COURT-I

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

6/5
For Order

C.P. No. 02/2016

CORAM: 1. Hon'ble Member (J) Ms. Manorama Kumari

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 29th May, 2017, 10.30 A.M

| | | | |
|---------------------|--|------------------------|---------------------|
| Name of the Company | S.R. Addhya Finance Pvt.Ltd. | | |
| Under Section | 621A | | |
| Sl. No. | Name & Designation of Authorized Representative (IN CAPITAL LETTERS) | Appearing on behalf of | Signature with date |

ARVIND KUMAR SINGH.
(CHARTERED ACCOUNTANTS)

S.R. Addhya Finance
(P) Ltd.

Arvind Singh
29/05/2017

Date : 29-05-2017 CP No. 02/2016 – SR Addhya Finance Pvt. Ltd.

ORDER

The petitioner is present.

The Order is pronounced in a separate sheet.



MANORAMA KUMARI
MEMBER(J)

BEFORE THE
NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

T.P. No. 182 of 2017
In
CP No. 02/2016

CORAM

Ms. Manorama Kumari
Hon'ble Member(J)

In the matter of Section 621A of the Companies Act, 1956 (Presently
Section 441 of the Companies Act, 2013).

And

In the matter of Section 217(4) of the Companies Act, 1956

And

In the Matter of

1.M/s. S.R. Addhya Finance Private Ltd., A Company Incorporated under the
Companies Act, 1956 and having its Registered Office at 11A, Chowringhee
Lane, Kolkata – 700016.

And

1.Mr. Sankar Addhya, Director
2.Ms. Jyostana Addhya, Director.

..... Applicants

Parties on Record :

1. Mr. Arvind Kumar Singh, Pr. C.A } For the Applicants

ORDER

Heard Ms. Arvind Kumar Singh, Pr.C.A. appearing for the applicants and
perused the case records.



2. The brief facts of the case, as emerged from the applications, are that in course of scrutiny of Balance Sheets and other related documents for the year ended as on 31st March, 2013, the Registrar of Companies West Bengal (ROCWB) has noticed the following breach of provisions of sections 217(4) of the Companies Act, 1956 (1956 Act):

a) Section 217(4) of the Companies Act, 1956

Upon scrutiny of Balance Sheet and other related documents as at 31.03.2013, it was found that no signature or name of signatory(s) was shown on the Directors' Report dated 29.08.2013 - This is contrary to the provisions of Section 217(4) of the Companies Act, 1956.

Having found the aforesaid violation of the Companies Act, 1956, the Asstt. Registrar of Companies, West Bengal, (AROCWB) issued noticee on 27.05.2015 to Ms. Jyostana Addhya and Mr. Sankar Addhya, Directors/being the Officers in default of the above named Company. The present applications have been filed by the said officers in default under section 217(4), for compounding of offence under section 217(4) of the Companies Act, 1956, which is punishable under section 217(5) of the said Act. The said applications stand transferred to National Company Law Tribunal, Kolkata Bench, for disposal upon dissolution of the Company Law Board.

3. In regard to the aforesaid violation, the Pr.C.A. appearing for the Applicants, has stated that at the time e-filing of Balance Sheet and other related documents for the financial year ended 31.03.2013, non-signed set of documents were uploaded wrongly with the MCA Web Portal. The Directors' Report dated 29.08.2013 for the said financial year was also uploaded where there was neither signatures nor name of signatory (ies) was mentioned. This is purely a human error and an accidental omission at the time of e-filing of the said documents.

Chatterjee

4. The Registrar of Companies, West Bengal (ROCWB), in his report dated 20-08-2013 has recommended for compounding of offence with the observations that :

- a. It was observed from the Balance Sheet and other related documents as at 31.03.2014 that the Directors' Report contained the name of the Chairman stating 'sd' i.e. signed and the Balance Sheet was duly signed by the signatory(s) in accordance with the provisions of section 217(4) of the Companies Act, 1956, and hence the offence has been made good.

He has further stated that no prosecution has been launched against the Directors of the Company under section 217(4) Companies Act, 1956 and that the officers of the Company are liable for the violation of section 217(4) of the Companies Act, 1956.

5. The provisions of section 621A of the Companies Act, 1956 is analogous to Section 441 of the Companies Act, 2013 which confers power to the Tribunal, for compounding of the offences. Section 441 of the Companies Act, 2013 came into force w.e.f. 01.06.2016. The breach of the provisions of section 217(4) of the Act 1956 has been detected by ROCWB in course of scrutiny of the Balance Sheets as at 31.03.2013 and other documents which is punishable under section 217(5) of the said Act.

6. It appears from the applications that the applicants have prayed for compounding of offences committed under section 217(4) of the Companies Act, 1956 in respect of financial year ended 31.03.2013, as indicated in the show cause notice dated 27.05.2017 issued to the applicants by the Asstt. Registrar of Companies, West Bengal for the violation of the provisions of section 217(4) of the Companies Act, 1956 and as per report dated 20.08.2015 of ROCWB, the offence has been made good in respect of the Balance Sheet as at 31.03.2014.

Chandra

7. Perused the applications. Having considered the submissions of Pr.C.A. appearing for the applicants who prayed for leniency while imposing the cost as it was not intentional and is first offence as such prayed for imposing minimum compounding amount. Heard, seen the reports of ROCWB, I am inclined to permit the applicants to compound the offences as aforesaid. Accordingly, I do hereby compound the aforesaid offence under section 217(4) of the Companies Act, 1956 in respect of the Balance Sheets as at 31.03.2013 subject to depositing the compounding fees by each of the applicants as indicated herein below:

| Sl.No. | Applicant | Compounding fee imposed |
|--------|---------------|-------------------------------------|
| 1. | Two Directors | Rs.5000/- X 2 X 1 yr. = Rs.10,000/- |
| Total | | Rs.10,000/- |

The officers in default shall pay the compounding fees from their personal source. The compounding Fees are to be deposited within 15 days hereof.


(Manorama Kumari)
Member (J)

Signed this 29th day of May, 2017.