

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

**NEW DELHI BENCH
NEW DELHI.**

Company Petition No.16/170/(ND)/2017

Present: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

In the matter of:

SECTION 441 OF THE COMPANIES ACT, 2013 FOR VIOLATION OF SECTION 166 OF THE COMPANAIES ACT, 1956 AND SECTION 96 OF THE COMPANIES ACT, 2013.

AMONGST

- 1). PIPING AND ENERGY PRODUCTS PRIVATE LIMITED,
Through its Managing Director,
Z-18, Okhla Industrial Area, Phase – II,
New Delhi-110020.
- 2). Mr. Yadavalli Venkata Seeta Rama Sastry
86, Block LD, Pitampura, Delhi-110034.

... APPLICANTS

AND

Registrar of Companies, NCT of Delhi & Haryana
4th floor, IFCI Tower,
Nehru Place
New Delhi-110019.

.....RESPONDENT

FOR THE PETITIONERS : Ms. Anjali Kalra. Practising Company Secretary,
Authorised Representiave.

Pronounced on 16.11.2017.

ORDER

In relation to the offence arising out of non-convening of the Annual General Meetings (AGMs) for the financial year 2015-16 by the date of 30th September, 2016, the applicants above named has filed the above Petition for compounding the offence under Section 96 of the Companies Act, 2013 for the year 2015-2016.

2. The Petitioner claims that since many of the files and important documents got destroyed due to fire arising out of short circuit during non-working hours and hence the auditor was not in a position to audit the financial statements. It is further pleaded in the Petition that the violation committed for not convening the AGMs is without any malafide intention and that in the circumstances as they have suo motto reported the non-compliance on their own, the same may be duly considered while taking into consideration the imposition of fine, as prescribed under the relevant provisions of the Companies Act, 2013. It is also averred that they have put an end to the offence by convening the AGM for the relevant year on Friday 27th January, 2017.

3. The Registrar of Companies has filed a detailed report and a perusal of which shows that no prosecution in relation to the offence has been filed or launched and that similar offence has also not been compounded during the last 3 years. It is further reported that the default has been made good as per details furnished by RoC which is in accordance with the details as extracted in paragraph 2 above. Further, it is also represented by the RoC in the report dated 07.09.2017 that no complaint has been received against



the Company and that there is no inspection or investigation proceedings pending against the Company.

4. The plea made by the Petitioners/applicants in the above Company Petition and the documents annexed therewith and the report of the RoC have been taken into consideration. Further, in passing this order, this Tribunal is also guided by the Judgement of the Hon'ble NCLAT passed in Viavi Solutions India Private Limited & Others vs. Registrar of Companies, NCT Delhi & Haryana in relation to quantum of imposing of fine and compounding of an offence.

5. Applying the above yardstick it is seen that the Petitioner Company is a Private Limited Company whose shares obviously are not listed. At the time of oral representations it is submitted by the learned Authorised Representative that even though for the year ended 31.03.2016 the applicant company had earned a profit, however subsequently the company is not in a sound financial position. However to this effect no documents have been filed by the applicants. Be that as it may, it is seen that defaulter has made good the default on its own. Further under the provisions of Companies Act, 2013 the punishment for default in complying with the relevant provisions requiring to convene AGM is attendant only with fine. Further as per the report of ROC no complaints have been received against the company nor any prosecution has been launched or pending. The offence is also not continuing and has been put an end to by convening the AGM for the relevant year. Further it is also seen that the Managing Director of the Company who is the 2nd applicant is aged above 80 years which has also been taken into consideration while imposing the fine for the offence for which compounding is sought being a 1st time offence.

6. Hence, in the circumstances of the case, this Tribunal is of the view that it will be fit and proper to impose the following fine on the defaulters



thus aggregating in all to Rs.1,50,000/- (Rupees One Lakh Fifty thousand) for the relevant year the break up of which is given as follows:

For	2015-16
Piping and Energy Products Private Limited	1,00,000
Yadavalli Venkata Seeta Rama Sastry	50,000
Total	1,50,000

7. Subject to the remittance of the aforesaid fine, the offence shall stand compounded. For compliance within three weeks. Fine levied on the Managing Director shall be paid out of his personal account.

8. Petition stands disposed off in terms of the above.

Sd-
16/11/17
(R.VARADHARAJAN)
MEMBER (JUDICIAL)

KCS