

**In the National Company Law Tribunal**  
**New Delhi Bench**

**C.P No- 16/118/2017**

**In the Matter of**  
**M/s Caparo Power Limited**

**Order Delivered on - 24.11.2017**

**CORAM: SMT. INA MALHOTRA**  
**HON'BLE MEMBER(J)**

Present- Mr. Ashutosh Gupta, Advocate

**ORDER**

This petition has been filed u/s 441 of the Companies Act, 1956 praying for compounding of the offence u/s 96 of the Companies Act. The said petition which has been routed through the office of the RoC along with their comments, prays for compounding the offence of not holding the AGM within the period required under the Statute.

2. As per the provision of Section 96(1) of the Companies Act, 2013:

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***“Every company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next.”***

3. The petitioner's offence relates to period from 01.10.2015 to 28.12.2015. The AGM which should have been held on or before 30<sup>th</sup> September 2015 for the financial year ending 31<sup>st</sup> March 2015, could only be held on 28.12.2015 leading to a delay of 88 days thus violating the provisions of Section 96 of the Companies Act, 2013. The default has since been made good.

4. The aforesaid offence is punishable u/s 99 of the Companies Act, whereby the Company and every officer who is in default is punishable with a fine which may extend to Rs. 1,00,000/- and in the case of continuing default with a further fine which may extend to Rs. 5000/- for every day during which the default continues. Accordingly, RoC has recommended the imposition of a compounding fee of **Rs.5,40,000/-** on the company and three other applicants i.e Mr. Sachin Gupta, Mr. Ashok Kumar and Ms. Archana Bhatnagar while the fine recommended for the applicant Shri. Mani Ahuja who held a key position for only 27 days is Rs. 2,35,000/-.

5. The applicants have submitted that the delay in holding the AGM was beyond their control as their entire software was corrupted, leading to failure of their information system. They had

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requested the RoC for extension of time, but received their refusal much later. The Statutory Compliances were duly carried out at the earliest resulting in a delay of 88 days for which they have filed that the application for compounding.

6. It is submitted that the AGM could not be convened within the statutory period for reasons beyond their control Given the facts of the case that the applicants have suo moto prayed for compounding and that the delay occurred on account of their information system crashing necessitating further time to reconstruct their data, there is no legal impediment in compounding of this offence. Keeping in view the submissions made and the guidelines set out by the Hon'ble NCLAT in the matter of **M/s Viavi Solutions India Private Limited V. Registrar of Companies reported in (2017) 139 CLA 242**, it would be just and equitable to impose the fine as under:-

<b>For</b>	<b>Amount (Rs.)</b>
M/s Caparo Power Limited	Rs. 1,10,000/-
Mr. Sachin Gupta	Rs. 1,10,000/-
Mr. Ashok Kumar	Rs. 1,10,000/-
Ms. Archana Bhatnagar	Rs. 1,10,000/-
Ms. Mani Ahuja	Rs. 25,000/-

7. Subject to the remittance of the aforesaid fine, the offence shall stand compounded. For compliance within six weeks. Fine levied on the directors shall be paid out of their personal accounts.

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



**(Ina Malhotra)**

**Member Judicial**