

**In the National Company Law Tribunal**

**New Delhi Bench**

**C.P No- 16/236/ND/2017**

**In the Matter of**

**M/s Avenue Asia Advisors Private Limited**

**Order Delivered on-05.02.2018**

**CORAM: INA MALHOTRA, MEMBER (JUDICIAL)**

**DEEPA KRISHAN, MEMBER (TECHNICAL)**

**PRESENT**- Mr. Himanshu Harbola, Advocate

Mr. Manish Raj, CP

**ORDER**

**Per Ms. Ina Malhotra( Member Judicial)**

This petition has been filed u/s 441 of the Companies Act, 1956 praying for compounding of the offence u/s 92 of the Companies Act. The petitioners have defaulted in filing the company's Annual Return within the Statutory period for the Financial Year ending 31.03.2015. The default has been made good as the company has since filed its Annual Returns on 29.05.2017 for the financial year ending 31.03.2015.

2. As per provisions of Section 92 of the Companies Act, 2013, the Annual returns, duly adopted at the AGM, are required to be filed with



the Registrar of Companies within 60 days at the time when the AGM should have been held.

3. The default in not filing the Annual Returns within time attracts punishment u/s 92(5) of the Act which provides for a penalty upto Rs. 5 Lakhs to be imposed on the company and on each of its responsible officers.

4. The petitioner's offence relates to period from 30.11.2015 to 29.05.2017 leading to a delay of 546 days by petitioner nos. 1-3 and 278 by petitioner no.4 thus violating the provisions of Section 92 of the Companies Act, 2013. The default has since been made good.

5. The aforesaid offence is punishable u/s 92(5) of the Companies Act, whereby the Company and every officer who is in default is punishable with a fine which may extend to Rs. 5,00,000/- and every officer who is in default shall be punishable with imprisonment for a term which may extend to 6 months or with fine which may extend to Rs. 5,00,000/- or with both. Accordingly, RoC has recommended the imposition of a compounding fee of **Rs. 5,00,000/-** on the company and the other applicants.

6. The applicant submitted that the company had prepared the Annual Returns for the financial year 2014-2015, but inadvertently neglected to file the e-form MGT-7 with the RoC within the prescribed time.

7. Given the facts of the case that the prayer for compounding has been made suo moto and that there is no legal impediment in compounding of this offence, the petitioner/applicants' prayer can be granted. Keeping in view the submissions made and the guidelines set out by the Hon'ble NCLAT in the matter of imposing fines, it would be just and equitable to impose the fine as under:-

<b>For</b>	<b>Amount (Rs.)</b>
M/s Avenue Asia Advisors Private Limited	Rs. 50,000/-
Mr. Marc Lasry	Rs. 50,000/-
Ms. Sonia Esther Gardner	Rs. 50,000/-
Mr. Rohit Santani	Rs. 25,000/-

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

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

Sd-

(Deepa Krishan)

**Member Technical**

Sd-

(Ina Malhotra)

**Member Judicial**