

37

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. No. 57/441/NCLT/AHM/2017**

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 13.10.2017**

Name of the Company: GTPL Hathway Ltd.

Section of the Companies Act: Section 441 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
--------------	-------------------------------	--------------------	-----------------------	------------------

1.

2.

**ORDER**

None present for Petitioner.

Order pronounced in open Court. Vide Separate Sheets.

  
**BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL**

Dated this the 13th day of October, 2017.

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**C.P. No. 57/441/NCLT/AHM/2017**

**In the matter of:**

1. GTPL Hathway Limited  
Registered Office at  
202, Sahajanand Shopping  
Center, Opp: Swaminarayan  
Mandir, Shahibaug,  
Ahmedabad-380004
2. Aniruddhasinhji Jadeja  
S/o Noghubha Jadeja  
Residing at 8/A, Kamal Colony,  
Near Darshan Society,  
Navrangpura,  
Ahmedabad-380009

: Petitioners.

Order delivered on 13<sup>th</sup> October, 2017.

**Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J).**

**Appearance:**

Mr. Navin Pahwa, Senior Advocate with Learned PCS Mr. Chirag Shah for Petitioners.

**ORDER**

1. Petitioner No.1 is the Company and 2<sup>nd</sup> Petitioner is the Managing Director of the 1<sup>st</sup> Petitioner Company. Both the Petitioners filed a Petition before the Registrar of Companies for violation of Section 211 of the Companies Act, 1956 during the financial years from 2007-2008 to 2013-2014, and for violation of Section 129 of the Companies Act, 2013 during the financial years from 2014-15 and 2015-16 respectively.

2. The Registrar of Companies forwarded the said Petition to this Tribunal and the same is registered as Company Petition No. 57 of 2017.
3. The Report of the Registrar of Companies discloses that the Company is not included in the list of vanishing companies, and that no similar offence under Section 211 of the Companies Act, 1956 and Section 129 of the Companies Act, 2013 was compounded during the last three years by the Petitioners. Section 129 of the Companies Act, 2013 is corresponding to Section 211 of the Companies Act, 1956. Section 129 of the Companies Act, 2013 came into force with effect from 1.4.2014. The period of default up to 31.3.2014 is covered by Section 211 of the Companies Act, 1956. The period of default for the financial years 2014-15 and 2015-16 is covered by Section 129 of the Companies Act, 2013. The violation relates to the accounts laid before the Company in the General Meeting.
4. As per sub-section (7) of Section 211 of the Companies Act, 1956, if any such person as is referred to in sub-section (6) of Section 209 fails to take all reasonable steps to secure compliance by the Company, as respects any accounts laid before the company in general meeting, with the provisions of this section and with the other requirements of this Act as to the matters to be stated in the accounts, he shall, in respect of each offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.
5. As per Section 7 of Section 129 of the Companies Act, 2013 if the Company contravenes provisions of Section the Managing Director, the whole-time Director in charge of finance, the Chief Financial Officer or any other person changed by the Board with the duty of complying with the requirements of the Section and in the absence of any of the orders mentioned above all the Directors will be punishable with imprisonment or with fine which shall not be less than fifty thousand rupees but it may extend to five lakh rupees or with both.



6. So far as violation in respect of Financial Years 2007-2008 to 2013-2014 is concerned, Section 211 of the Companies Act, 1956 is applicable. Whereas for the violation in respect of Financial Years 2014-15 and 2015-16, Section 129(7) of the Companies Act, 2013 is applicable.
7. Considering the default period for the violation of Section 211 of the Companies Act, 1956, this Tribunal has to follow the procedure laid down for compounding of offences in Section 621 of the Companies Act, 1956. Section 621-A of the Companies Act says that the Tribunal is empowered to compound the offence punishable with imprisonment or with fine or with both. Therefore, this Tribunal, taking into consideration the period of default, by applying Section 621 of the Act, can compound the violation of Section 211 of the Companies Act, 1956 in respect of the financial years 2007-08 to 2013-14.
8. Section 441 of the Companies Act, 2013, says that the Tribunal is empowered to compound the offences under the Companies Act which are punishable with fine only. Therefore, the violation of Section 129 of the Companies Act relating to financial year ending on 31.3.2015 cannot be compounded by this Tribunal.
9. It is stated by the Petitioners that the violation is neither wilful nor intentional and it only relates to interpretation of the accounting treatment.
10. In view of Section 441 of the Companies Act, 2013, this Tribunal has no power to compound the offence for violation of Section 129 of the Companies Act, 2013 for the financial years 2014-15 and 2015-16.
11. In the result, this Petition is partly allowed by permitting the Petitioners No. 1 and 2 to compound the violation of Section 211

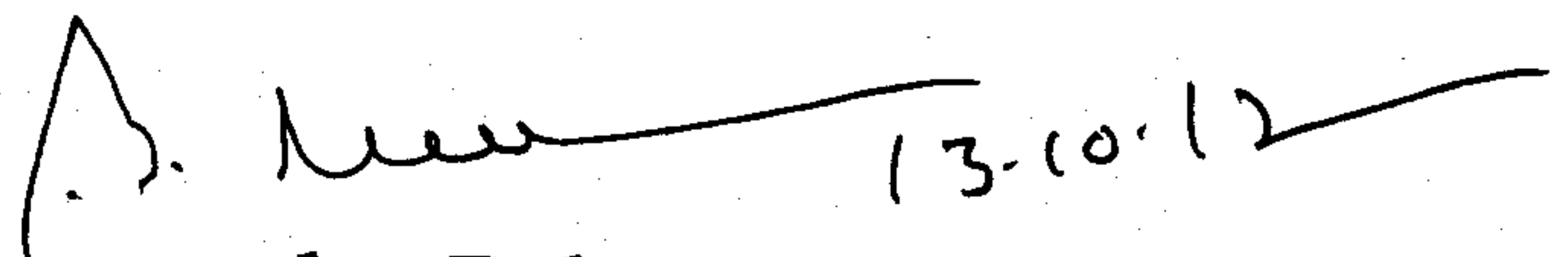
of the Companies Act, 1956 on payment of Rs. 10,000 (Ten Thousand) each in respect of each Financial Year from 2007-08 to 2013-14, by way of Demand Draft drawn on any Nationalised Bank in favour of Pay and Accounts Office, Ministry of Corporate Affairs, Mumbai, within three weeks from the date of this Order and file the original Demand Draft before the Registry of this Tribunal on or before 07<sup>th</sup> November, 2017. Compounding amount payable by Petitioners No. 1 and 2 is Rs. 70,000 (Seventy Thousand) each.

12. In respect of the violation of Section 129 of the Companies Act, 2013 during the Financial Years 2014-15 and 2015-16, the Registrar of Companies is directed to take appropriate steps as per the provisions of the Companies Act.

13. In case the Petitioners fail to pay the amount, as ordered above, the Registrar of Companies, Gujarat, Ahmedabad shall take appropriate action, including prosecution of the Petitioners, as per applicable law under intimation to this Tribunal forthwith.

14. The Petition is disposed of accordingly. Send a copy of this Order to the Petitioners for compliance and to the Registrar of Companies for reporting compliance of this Order by the Petitioners. List the matter on 9<sup>th</sup> November, 2017.

Signature:

A handwritten signature in black ink, appearing to be 'B. Raveendra Babu', followed by the date '13.10.17' written vertically.

**Sri Bikki Raveendra Babu, Member (J).**

RMR