

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P. No. 56/441/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 30.05.2017**

Name of the Company: GTPL Hathway Ltd. & Anr.


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

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	NAVIN PAHWA FOR CHIRAG SHAH, PCS	ADV.	Petitioner	
2.				

ORDER

Learned Advocate Mr. Navin Pahwa with Learned PCS Mr. Chirag Shah present for Petitioner.

Order pronounced in open Court. Vide separate sheet.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 30th day of May, 2017.

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P. No.56/441/NCLT/AHM/2017

CORAM: BIKKI RAVEENDRA BABU, MEMBER JUDICIAL

(Date: 30th day of May, 2017)

In the matter of: -

1. GTPL Hathway Limited,
Having its Registered Office at:
202, Sahajanand Shopping Center,
Opp. Swaminarayan Mandir,
Shahibaug,
Ahmedabad – 380 004.
2. Aniruddhasinhji Jadeja,
Managing Director,
Residing at 8/A, Kamal Colony,
Near Darshan Society,
Navrangpura,
Ahmedabad.

... Petitioners

Appearance: -

Mr. Navin Pahwa, Advocate, with Mr. Chirag Shah, PCS, for the petitioners.

FINAL ORDER

(Date:30.05.2017)

1. M/s GTPL Hathway Limited and its Managing Director, have filed a compounding application before the Registrar of Companies admitting violation of proviso to Section 149(4) of the Companies Act, 2013, which is punishable under Section 172 of the Act.
2. The Registrar of Companies, by his report dated 11th April, 2017, forwarded the said application to this Tribunal on 17th April, 2017. This Tribunal registered the same as C.P. No.56 of 2017. The report of the Registrar of Companies discloses that no similar offence under Section 149(4) of the Companies Act has been compounded during the last three years by the petitioners.
3. Section 149(4) of the Companies Act, 2013 read with Rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014 says that every company shall have a Board of Directors

consisting of individuals as Independent Directors in case of any class or classes of public companies as may be described. Petitioner No.1-company is a deemed public company. The paid up share capital of petitioner No.1-company, as on 31.3.2014, was Rs.98,34,53,880/-. As per Rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014, the following class or classes of companies shall have at least two directors as Independent Directors: -

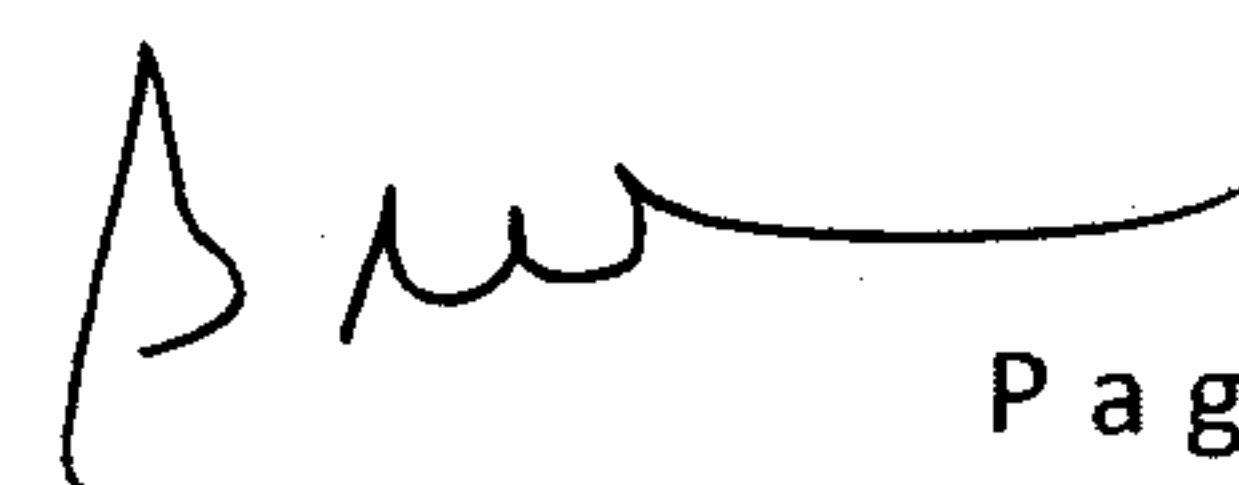
Class-1 – Public company having paid up capital of Rs.10 crore or more;

Class-2 – Public company having turnover of Rs.100 crore or more; and

Class-3 – Public company which have an aggregate outstanding loans, debentures and desposits exceeding Rs.50 crores.

4. In view of the fact that the paid up capital of petitioner No.1-company is more than Rs.10 crores, the company must have Independent Directors. Sub-section (4) of Section 149 of the Act came into force with effect from 1.4.2014. The company is given cooling period upto 31st March, 2015. But before 31st March, 2015, the company has not appointed any Independent Director. It appears that the company appointed Independent Director only on 28th September, 2016. Therefore, there is violation of Section 149(4) of the Companies Act, 2013.

5. No punishment is provided under Section 149 for violation of the provisions of Section 149 of the Companies Act, 2013. Therefore, it has become necessary to fall back upon Section 172 of the Act. Section 172 of the Act says that if a company contravenes any of the provisions of Chapter XI of the Companies Act, for which no specific punishment is provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall



not be less than fifty thousand rupees but which may extend to five lakh rupees.

6. This Tribunal has carefully perused the petition filed by the petitioners. There is no plausible reason on the part of the petitioner company in not appointing Independent Directors even one year after the coming into force of Companies Act, 2013.
7. Considering the above said aspects, this Tribunal is of the view that the violation proviso to Section 149(4) of the Companies Act, 2013 committed by the company and its officers, i.e. petitioners 1 and 2, can be compounded by directing the petitioners herein to pay an amount of Rs.1 lakh each.
8. Hence, the violation of Section 149(4) of the Act committed by the petitioners is compounded on payment of Rs.1,00,000/- by each of the petitioners 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 to file the original Demand Draft before the Registry of this Tribunal on or before 21st June, 2017.
9. 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.
10. The petition is disposed of accordingly. Send a copy of this order to the petitioners for compliance and the Registrar of Companies. For reporting compliance of the order by the petitioners, list the matter on 14th July, 2017.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Pronounced by me in open court on
This 30th day of May, 2017.