

BEFORE THE  
NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, KOLKATA

C.P. No. 111/2015

CORAM

Shri Vijai Pratap Singh  
Hon'ble Member(J)

Shri S. Vijayaraghavan  
Hon'ble Member(T)

In the matter of Section 621A of the Companies Act, 1956  
(Presently Section 441 of the Companies Act, 2013)

And

In the matter of Section 211(2) of the Companies Act, 1956

And

In the Matter of

1M/s. Corporate Ispat Alloys Limited, a Company Incorporated under the  
Companies Act, 1956 and having its Registered Office at Insignia Tower,  
EN-1, 3<sup>rd</sup> Floor, Sector-V, Salt Lake City, Kolkata – 700091.

And

- 1.Mr. Vidya Sagar Banarsi Das Garg, Whole-time Director
- 2.Mr. Hirak Kumar Ghosh, Ex-Company Secretary.

..... Applicants

Present for the Parties

Ms. Neha Somani, Pr.C.S.                      -      For the Applicants

O R D E R

Heard Ms. Neha Somani, Pr.C.S. appearing for the applicants and perused the  
case records. The brief facts , as emerged from the applications, are that :

- a) Applications were filed by one Whole-time Director and one Ex-Company Secretary of M/s Corporate Ispat Alloys Ltd. before the Company Law Board, Kolkata Bench, under section 621A of the Companies Act, 1956 (Act.1956) for compounding of offence for violation of section 211(2) of the Act 1956, which is punishable under section 211(7) of the said Act. The said applications stand transferred to this National Company Law Tribunal, Kolkata Bench, for disposal upon dissolution of the Company Law Board.
- b) The Asstt. Registrar of Companies, West Bengal, (AROCWB) issued a notice on 16.07.2013 to the applicants, indicating that upon scrutiny of the Balance Sheet as at 31.03.2011 and other related documents, it was found that :-
- i) the value of import on CIF basis during the year is reported in the profit and loss account as Rs.2710.5 lakhs. But no disclosure is made regarding the break-up thereof into raw materials, components & spare parts and capital goods.
  - ii) in respect of sale of traded goods (Rs.925.88 lakhs), no disclosure was made regarding amount of sale in respect of each class of goods, indicating quantities of such sales for each class separately.
  - iii) in respect of the sale of manufactured goods (Rs.32,198.19 lakhs), no disclosure was made regarding amount of sale in respect of each class of goods, indicating quantities of such sales for each class separately.
  - iv) no disclosure of the installed production capacity of the company is made in the profit and loss account.
  - v) in respect of consumption of raw materials (Rs.15,301.9 lakhs), no disclosure was made about item-wise break-up of the basic raw materials and quantities thereof.
  - vi) In the balance sheet no disclosure was made about the contingent liabilities.

This indicates that a true and fair view of the profit and loss account was not presented in accordance with section 211(2) read with Schedule VI of the Act 1956.



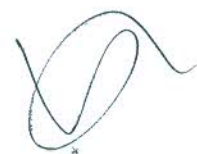


2. In regard to the aforesaid violation, the Pr.CS appearing for the Applicants has stated that :

- i) While filing the Annual Audited Accounts in the XBRL format for the financial year ended 31.03.2012, the Company has disclosed breakup of raw materials, components & spare parts and capital goods before the "Total value of imports calculated on CIF basis".
- ii) & iii) While filing the Annual Audited Accounts in the XBRL format for the financial year ended 31.03.2012, the Company has disclosed amount of each class of goods separately under the head "Details of manufactured and traded good".
- iv) This requirement was there in the old Schedule VI of the Companies Act, 1956. The said Schedule VI was substituted by MCA vide Notification No. S.O. 447( E ) dated 28.02.2011 which was applicable for Balance Sheet and Profit and Loss Account to be prepared for the financial year commencing on or after 01.04.2011. The requirement of disclosing installed production capacity of the Company had been omitted. Thus the offence did not continue.
- v) While filing the Annual Audited Accounts in the XBRL format for the financial year ended 31.03.2012, the Company has disclosed break-up of the basic raw materials under the head "Details of raw materials consumed".
- vi) While filing the Annual Audited Accounts in the XBRL format for the financial year ended 31.03.2012, the Company has disclosed contingent liabilities under the head "Disclosure of additional balance sheet notes explanatory".

3. The Registrar of Companies, West Bengal (R0CWB), in its 1<sup>st</sup> report dated 11.12.2013 has recommended for compounding of offence with the observation that the

81



offence committed as aforesaid, is once for all and the same has not been made good. He has further stated that the directors/officers of the Company are liable for aforesaid violations. In his 2<sup>nd</sup> report dated 16.02.2017, ROCWB has stated that :

- i) Non-Disclosure of Inventories into break-up of raw materials, components & Spare parts and capital goods.:

It is observed that the Company in the subsequent Profit and Loss Accounts as at 31.03.2012 has disclosed breakup of raw materials, components and spare parts and capital goods before the head "Total value of imports calculated on CIF basis" and hence, the offence has been made good in the subsequent Balance Sheet as at 31.03.2012.

- ii) Sale of Traded Goods not classified in respect of each class of goods, indicating quantities of such sales for each class separately:

It is observed that in the subsequent Balance Sheet as at 31.03.2012, the Company has disclosed the amounts of each class of goods separately under the head "Details of manufactured and traded goods" and hence the offence has been made good in the subsequent Balance Sheet as at 31.03.2012

- iii) Sale of Manufactured goods not classified in respect of class of goods, indicating quantities of such sales for each class separately:

It is observed that in the subsequent Balance Sheet as at 31.03.2012, the Company has disclosed the amount of each class of goods separately under the head "Details of manufactured and traded goods" and hence, the offence has been made good in the subsequent Balance Sheet as at 31.03.2012.

R





- iv) Non-disclosure of the installed production capacity of the company in Profit and Loss Account:

It is observed that this requirement was there in the old Schedule VI of the Companies Act, 1956. The said Schedule VI has been substituted by MCA vide Notification No. S.O. 447(E) dated 28.02.2011 which was applicable for Balance Sheet and Profit and Loss Accounts for the financial year commencing on or after dated 01.04.2011. The requirement of disclosing installed production capacity of the Company has been omitted.

- v) Non-disclosure of Consumption of raw materials into item wise break up of basic raw materials and quantities thereof :

It is observed that in the subsequent Balance Sheet as at 31.03.2012, the Company has disclosed the break-up of the basic raw materials under the head "Details of raw materials consumed" and hence, the offence has been made in the subsequent Balance Sheet as at 31.03.2012.

- vi) Non-disclosure about contingent liabilities in the Balance Sheet of the Company:

It is observed that in the subsequent Balance Sheet as at 31.03.2012, the Company has disclosed contingency liabilities under the head "Disclosure of additional balance sheet notes explanatory" and hence the offence has been made good in the subsequent Balance Sheet as at 31.03.2012

4. The provisions of section 621A of the Companies Act, 1956 is analogous to Section 441 of the Companies Act, 2013 which confers power to the Tribunal, for compounding of offences. Section 441 of the Companies Act, 2013 came into force w.e.f. 01.06.2016. The breach of the provisions of section 211(2) of the Act 1956 has been detected by ROCWB in course of scrutiny of the Balance Sheet as at 31.03.2011 and other documents which is punishable under section 211(7) of the said Act.

5. Perused the applications. Having considered the submissions of Pr.C.S. appearing for the applicants and the reports of ROCWB, we are inclined to permit the applicants to compound the offences as aforesaid. Accordingly, we do hereby compound the aforesaid offences under section 211(2) of the Act 1956 in respect of the Balance Sheet as at 31.03.2011, subject to depositing the compounding fees by each of the applicants as indicated herein below:

Sl.No.	Applicants	Compounding fee imposed on each instance
1.	One Whole Time Director	Rs 5000/- X 6 instances = Rs.30,000/-
2.	One Erstwhile Company Secretary	Rs.5000/- X 6 instances = Rs.30,000/-
		Total : Rs.60,000/-

The officers in default shall pay the compounding fees from their personal source. The compounding Fees are to be deposited within 15 days hereof.

Sd/-  
( S. Vijayaraghavan)  
Member (T)

Sd/-  
(Vijai Pratap Singh)  
Member (J)

Signed this 29<sup>th</sup> day of May, 2017.