

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C.P.No.
CA.Nos. 16/90/2016
PRESENT: SMT.INA MALHOTRA
Hon'ble Member (J)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 30.06.2017**

NAME OF THE COMPANY: Metro Buildtech Private Limited

SECTION OF THE COMPANIES ACT: 621A

S.NO. NAME DESIGNATION REPRESENTATION SIGNATURE

Present: Mr. Kamal Kant Jha, Senior Panel Counsel for RoC
Mr. Manish Raj, Company Prosecutor, RoC Delhi
Ms. Rekha Mittal, Company Secretary.

ORDER

This petition has been filed u/s 621A of the Companies Act, 1956 praying for compounding of the offence u/s 211(1) of the Companies Act r/w AS-13 issued by ICAI. During the inspection carried out in the Directorate and it is observed from the Balance Sheet for the financial year ending 31.03.2011, 31.03.2012 and 31.03.2013, that the company had made investments in various companies, but had failed to disclose the nature and mode of valuation of investments as per requirements of Section 211(1) r/w Schedule VI and AS-13 of the Act.

↓

2. As per the provision of Section 211(1) of the Companies Act, 2013:

“Every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of the financial year and shall, subject to the provisions of this section, be in the form set out in Part I of Schedule VI, or as near thereto as circumstances admit or in such other form as may be approved by the Central Government either generally or in any particular case; and in preparing the balance sheet due regard shall be had, as far as may be, to the general instructions for preparation of balance sheet under the heading “Notes” at the end of that Part: Provided that nothing contained in this subsection shall apply to any insurance or banking company or any company engaged in the generation or supply of electricity or to any other class of company for which a form of balance sheet has been specified in or under the Act governing such class of company.”

3. The petitioner’s offence relates to 3 years i.e the financial years ending from 31.03.2011 to 31.03.2013. The fine and penalty envisaged under the Act has been provided in Section 211(7) of the applicable Act, which is 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.

4. As per the report of the RoC, the default has not been made good. The maximum fine which is recommended by the office of the RoC is Rs. 10,000/-



for each year's default on each of the applicants, which aggregates to Rs. 30,000/- on each for default of 3 years.

5. In Court however, the Ld. PCS appearing on behalf of petitioner argued that there was no violation of the aforesaid provision since the petitioner had adequately disclosed the investment of Rs. 13,20,000/- in the equity shares of M/s CLG Enterprise Pvt. Ltd. in the Notes to Accounts as the investment was with a Private Limited Company which were not quoted on the stock exchange.

6. Given this argument that there was no default, notice was issued to the office of the RoC to explain why the petitioners were allegedly under the threat of prosecution when they maintained that time was no default. Pursuant to the notice, Ld. Company Prosecutor appeared and maintained their stand that violations had been detected for which prosecution shall lie.

In the circumstances, Ld. PCS was granted liberty to withdraw and contest the prosecution as and when initiated, but at this stage she submits that she withdraws her objections and prays for compounding of the offence.

7. Having accepted their default, this application is allowed, and the petitioner/applicants' prayer is being considered. Accordingly, this Bench deems it sufficient to impose an aggregate fine of Rs. 5000/- on each of the defaulting parties as a single default has a cascading effect of attracting several violations, each required to be compounded. Accordingly, fine is imposed as under:



For	Amount
Mr. Rajinder Kumar Goyal	5000/-
Mr. Aakash Deep Goyal	5000/-
Mrs. Salochna Goyal	5000/-

8. Fine imposed on the Directors/officers shall be paid out of their personal accounts.
9. Subject to the remittance of the aforesaid fine within 30 days, the offence shall stand compounded. Copy of the order be sent to the office of the RoC. Compliance Report be placed on record.
10. Petition stands disposed off in terms of the above.

Idi-

(Ina Malhotra)

Member Judicial