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NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD

C.P. No. 36/441/NCLT/AHM/2017

Coram:

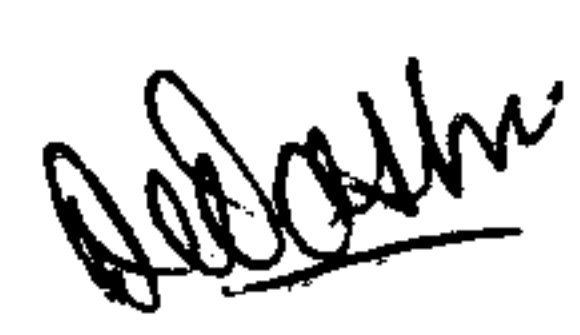
Present: Hon'ble Mr. BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD  
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 01.06.2017

Name of the Company: Haldyn Glass Ltd.

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

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE


1. ASHISH C. DOSHI PCS Applicants 

2.

ORDER

Learned PCS Mr. Ashish Doshi present for Petitioner.

Order pronounced in open Court. Vide separate sheet.

  
BIKKI RAVEENDRA BABU  
MEMBER JUDICIAL

Dated this the 1st day of June, 2017.

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**C.P. No.36/441/NCLT/AHM/2017**

**CORAM: BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**

**(Date:1<sup>st</sup> day of June, 2017)**

In the matter of :-

1. Tarun Narendra Shetty,  
Managing Director,  
M/s Haldyn Glass Limited,  
12-B, Balmoral,  
7, Mount Mary Road,  
Bandra West,  
Mumbai - 400050.
2. Narendra Dejoo Shetty,  
Whole Time Director,  
M/s Haldyn Glass Limited,  
12-B, Balmoral,  
7, Mount Mary Road,  
Bandra West,  
Mumbai - 400050.
3. Ganesh Prasad Chaturvedi,  
Chief Financial Officer,  
M/s Haldyn Glass Limited,  
A-1505, Vishnu Shivam Tower,  
Thakur Village,  
Kandivali (East),  
Mumbai - 400101.
4. Anwar Abdulla Lambay,  
Company Secretary,  
M/s Haldyn Glass Limited,  
Ascon Acres 4, Naya Nagar,  
Mira Road (E), Thane,  
Maharashtra - 401107.

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Petitioners

**Appearance: -**

Mr. Ashish Doshi, PCS, for the petitioners.

**FINAL ORDER**  
(Date:01.06.2017)

1. The petitioners, who are Managing Director, Whole Time Director, Chief Financial Officer and Company Secretary of M/s Haldyn Glass Limited, filed an application before the Registrar of Companies under Section 441 of the Companies Act, 2013, admitting



the violation of provisions of Section 209(1) of Companies Act, 1956 (corresponding section 128 of Companies Act, 2013).

2. The Registrar of Companies, by his report dated 13<sup>th</sup> January, 2017, forwarded the said application to this Tribunal. This Tribunal registered the same as C.P. No.36 of 2017. The report of the Registrar of Companies discloses that no similar offence under Section 209(1) of the Companies Act, 1956 has been compounded during the last three years by the petitioners.

3. The period of default in this case is for the financial years 2012-13, 2013-14 and 2014-15. The corresponding section to Section 209 of the Companies Act, 1956 is Section 128 of the Companies Act, 2013. Section 128 of Companies Act, 2013 came into force with effect from 1.4.2014. In this case, the period of default upto 31.3.2014 is covered by Section 209 of Companies Act, 1956, whereas the default for the financial year ended 31.3.2015 is covered by Section 128 of the new Act.

4. According to the Registrar of Companies, the company has not maintained proper record showing full particulars, including quantitative details and situation of fixed assets and particulars in respect of plant and machinery and furniture & fixture, meaning thereby, that at the time of audit, the register of fixed assets was not updated and, hence, violated the provisions of Section 209(1) of the Companies Act, 1956 (corresponding Section 128 of the Companies Act, 2013).

5. For the violation of Section 209(1) of Companies Act, 1956, the punishment provided is imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

6. For the violation of Section 128 of the Companies Act, 2013, the punishment provided is imprisonment for a term which may extend

to one year or with fine which shall not be less than fifty thousand rupees or with both.

7. So far as the violation, in respect of financial years 2012-13 and 2013-14, is concerned, Section 209(1) of the Companies Act, 1956 is applicable whereas for the violation in respect of financial year 2014-15, Section 128 of the Companies Act, 2013 is applicable.

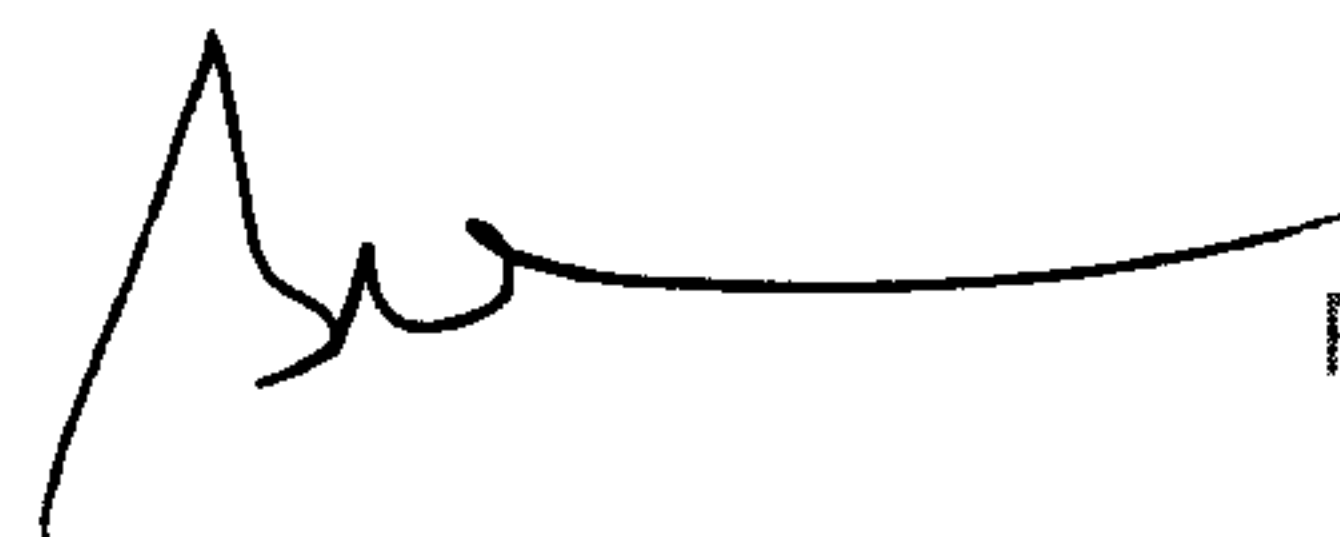
8. Considering the default period, for the violation of Section 209(1) of the Companies Act, 1956, this Tribunal has to follow Section 621A of the Act. Section 621A of the Companies Act, 1956 says that the Tribunal is empowered to compound the offence punishable with imprisonment or with fine or with both.

9. Therefore, this Tribunal, taking into consideration the period of default, applying Section 621A of the Act, can compound the violation of Section 209(1) in respect of financial years 2012-13 and 2013-14.

10. 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 128 of the Companies Act relating to financial year 2014-15 cannot be compounded by this Tribunal.

11. It is stated by the petitioners that the violation was unintentional and due to omission and oversight, and there was no fraudulent intention or improper motive.

12. Considering the submissions in the petition and the provisions of the Companies Act, this Tribunal is of the considered view that the offence under Section 209(1) of the Companies Act, 1956 can be compounded for the financial years 2012-13 and 2013-14 by directing the petitioners to pay Rs. 10,000/- each for each financial year. In view of Section 441 of the Companies Act, 2013, this Tribunal






has no power to compound the offence for the violation of Section 128 of the Companies Act, 2013 for the financial year 2014-15.

13. In the result, this petition is partly allowed by permitting the petitioners to compound the violation of Section 209(1) of the Companies Act, 1956, on payment of Rs.10,000/- each, in respect of each financial year, i.e. 2012-13 and 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 to file the original Demand Draft before the Registry of this Tribunal on or before 23<sup>rd</sup> June, 2017. Compounding amount payable by Petitioners no. 1 to 4 is Rs. 20,000/- each. In respect of the violation for the financial year 2014-15, the Registrar of Companies is directed to take appropriate steps as per the provisions of the Companies Act.

14. 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.

15. 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 13<sup>th</sup> July, 2017.

  
**BIKKI RAVEENDRA BABU**  
**MEMBER JUDICIAL**

Pronounced by me in open court on  
This 1<sup>st</sup> day of June, 2017.

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