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BEFORE THE
NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, KOLKATA

C.P. No. 110/2015

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(1) 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, 3rd 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(1) read with Schedule VI, 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) in the Auditors Report It is stated that "In our opinion and according to the information and explanation given to us, the Company has maintained proper records of the transactions and contracts in respect of investments in shares and other securities and timely entries have been made therein. All the investments have been held by the Company in its own name including shares held jointly as mentioned Note No. 2 of Schedule 6 to the accounts." But no such Note No.2 of Schedule VI is found in the balance sheet.
 - ii) capital advance has been adjusted in Capital Work-In-Progress for an amount of Rs.28,203.89 lakhs. However, advance is required to be shown under a separate head (Loans and Advances) in the balance sheet and not as part of Capital Work-In-Progress.
 - iii) in respect of Investments (Rs.20,586.22 lakhs), no disclosure is made regarding whether such investments were trade or non-trade in nature.

This indicates that a true and fair view of the Balance Sheet was not presented in accordance with Section 211(1) 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 the relevant note as referred in the Auditors Report.
- ii) While filing the Annual Audited Accounts in XBRL format for the financial year ended 31.03.2012, the Company has disclosed the Capital Advance separately under the head "Loans & Advances".
- iii) While filing the Annual Audited Accounts in the XBRL format for the financial year ended 31.03.2012, the Company has disclosed its investment under the head of "trade" of "non trade".

3. The Registrar of Companies, West Bengal (ROCWB), in its 1st report dated 11.12.2013 has recommended for compounding of offence with the observation that the 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 the 2nd report dated 16.02.2017, Dy. ROCWB has stated that :

- i) Non-disclosure of accounts note no.2 in the Balance Sheet of the Company:

It is observed that in the subsequent Balance Sheet as on 31.03.2012, the Company has disclosed the relevant note as referred in the Auditors Report and hence, offence has been made good in the subsequent Balance Sheet as on 31.03.2012.

- ii) Capital Advance wrongly adjusted with the Capital Work in Progress:

It is observed that in the subsequent Balance Sheet as on 31.03.2012, the Company has disclosed the Capital Advance separately under the head "Loans & Advances" and hence, the offence has been made good in the subsequently Balance Sheet as on 31.03.2012.

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- iii) Non-disclosure of Investments whether such investments were trade or non-trade in nature:

It is observed that in the subsequent Balance Sheet as on 31.03.2012, the Company has disclosed its investment under the head of "trade" or "non-trade" and hence, the offence has been made good in the subsequent Balance Sheet as on 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(1) read with Schedule VI of the Act 1956 has been detected by ROCWB in course of scrutiny of the Balance Sheet as on 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 & Dy.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(1) read with Schedule VI of the Act 1956 in respect of the Balance Sheet as on 31.03.2011, subject to depositing the compounding fees by each of the applicants as indicated herein below:

Sl.No.	Applicant	Compounding fee imposed on each instance
1.	One Whole Time Director	Rs.5000/- X 3 instances = Rs. 15,000/-
2.	One Erstwhile Company Secretary	Rs.4000/- X 3 instances = Rs. 12,000/-
Total :		Rs. 27,000/-

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 29th day of May, 2017.