

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C. P. NO.
CA. NO. 16/41/2017

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 10.03.2017

NAME OF THE COMPANY: M/s. Beam Global Spirits & Wine India Pvt Ltd.

SECTION OF THE COMPANIES ACT: 621A

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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Present: Mr. Ankit Parmar and Mr. Ashwin Mishra, Advocates

ORDER

This petition has been filed by the applicant Ms. Jyoti Chawla as a Company Secretary of M/s. Bean Global Spirits & Wine (India) Pvt. Ltd, U73100DL1991PTC046606, incorporated on 02.12.1991. As per averments, the AGM for the F.Y ending on 31.03.2013 could not be held, and consequently the default in filing the Annual Returns and Financial Statements within the statutory period has resulted in non compliance of the statutory requirement u/s 159, 166(1), 220(1) of the Companies Act, 1956.

2. The default was subsequently made good on 05.09.2014 by filing the Annual Returns and Financial Statement for the year ending 31.03.2013. The office of the RoC has submitted in its report that the

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fine applicable till the notification of the Companies Act was one u/s 162(1), 168 & 220(3) of the Companies Act 1956 which could extend to Rs.500/- for each day's delay, while after notification of the Companies Act, 2013, i.e. w.e.f. 01.04.2014, the offence attracted a minimum fine of Rs.50,000/- but which could extend to Rs.5lacs. Accordingly, the office of the RoC has calculated and recommended the imposition Rs.12,70,000/-, being the maximum fine u/s 162(1), 220(3) & 168 of the Companies Act 1956 and Section 92, 99 & 137 of Companies Act 2013.

3. As per the report, prosecution has not been initiated. The petitioner submits that failure to comply with the statutory provisions on time was beyond their control as the two major shareholders are incorporated abroad. Steps had to be taken to change the financial year from the existing January-December to April-March. Delay also occurred due to some internal review of the financial processes and accounts, and on account of corporate restructuring at the global level.

4. Given the facts of the case that this was the company's first default and did not cause prejudice to the interest of its members or other stakeholders, nor did it impact the financial strength of the company, I am inclined to accept that the said default was not deliberate and as such, it would be sufficient to impose a composite fine of Rs. 2,00,000/- on the applicant.

5. The said amount shall be paid by the applicant from her personal account.



6. Subject to the remittance of the aforesaid fine within two weeks, the offence shall stand compounded. Upon compliance, the Bench Officer shall communicate the same to the office of the RoC for taking appropriate steps.

7. Petition stands disposed off in terms of the above and consigned to Record Room.

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(Ina Malhotra)
Member Judicial