

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P.NO. 26/2017

**IN THE MATTER OF SECTION 2(41) OF THE COMPANIES ACT, 2013
AND**

**IN THE MATTER OF
TAVANT TECHNOLOGIES INDIA PRIVATE LIMITED**

Judgement/Order delivered on: **14th July 2017**

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Tavant Technologies India Private Limited
12, CSRIE-II, Guava Garden, 5th Block,
Koramangala, Bangalore-560095

PETITIONER

For the Applicant (s) Mr. K.Rajashekar, 1st Floor, 5th Main, 14th Cross,
Sadashivanagar, Bangalore-560080, Practicing
Company Secretary and Authorised Representative
for the Petitioners

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial) – Author

ORDER

This petition is filed by the Petitioner Company under section 2(41) of the Companies Act, 2013 with a prayer to permit the company which is a subsidiary of body corporate registered outside India to follow calendar year (1st January to 31st December) as its financial year for the purpose of aligning of its accounts with its Holding Company in line with global practice.

The averments made in the Company Application are briefed hereunder:-

The Petitioner Company is a Private Limited Company, incorporated under the Companies Act, 1956 on 30th November 2000 under the name and style of **"Tavant Technologies India Private Limited"** vide company No. 108684, in the National Capital Territory of New Delhi. Subsequently, the Registered office of the Applicant Company was shifted to the State of Karnataka with effect from 24th February 2006 and was allocated Corporate Identification No. **U74899KA2000PTC039852** and the Registered Office of the Company is situated at # 12, CSRIE-II, Guava Garden, 5th Block, Koramangala, Bangalore-560095.

The main objects of the Company is to start a software house in India to develop, export various types of commercial and engineering software like leisure software, data base software, software games, industry automation and all other kinds of software for worldwide market and development of new avenues in the field of information technology, software or other allied lines etc., Details of the objects of the Company are mentioned in the Memorandum and Articles of Association of the Petitioner Company.

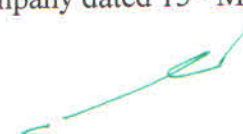
It is further averred that, during the financial year 2000-2001, the Petitioner Company became a subsidiary company of Tavant Technologies inc., USA, a body corporate incorporated under the laws of USA. The financial year of Holding Company i.e., Tavant Technologies inc., USA is from 1st January to 31st December.

It is further averred that, the first financial year of the Applicant Company was for a period from 30th November 2000 up to 31st December 2001. All the subsequent financial years have been for a calendar year i.e., for the period from 1st January to 31st December. The Applicant Company has all these years opted a different financial year in order to align it with the financial year of the Holding Company for the purpose of consolidation of accounts.

The copy of the latest audited financial accounts of the Petitioner Company and the Holding Company are enclosed with the Petition.

As per provision of section 2(41) of the Companies Act, 2013, every company is required to have its financial year from April to March and any company which is the subsidiary company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India has to make an application to the Tribunal for obtaining the prior approval. As the Petitioner Company being the Subsidiary Company of a body corporate incorporated under the laws of USA which follow the calendar year i.e., from 1st January to 31st December as its financial year pattern. Hence this petition.

I have heard the Practicing Company Secretary for the Petitioner Company. He filed the latest financial Accounts as at 31st December 2015 of the Petitioner Company and Holding Company. He has filed certified true copy of the Resolution passed by the Board of Directors of the Petitioner Company dated 15th March 2017



and has also filed true copy of the consent given by the Holding Company for following the calendar year as its financial year i.e., from 1st January to 31st December every year. The Practicing Company Secretary for the Petitioner Company further stated that, the Application was filed after two years of the commencement of section 2 (41) of the Companies Act, 2013 and hence requested to condone the delay in filing the Application and in this regard an I.A No.68/2017 was filed on 17th June 2017 before the Tribunal stating that, the Petitioner Company was unaware of the provisions of Section 2 (41) of the Companies Act, 2013 and the same was noticed by the Auditor and prayed to condone the delay of 405 days in filing the Petition. Considering the circumstances as stated in the I.A No. 68/2017, the Tribunal vide its order dated 27th June 2017 has allowed I.A No.68/2017 and condoned the delay.


I have also seen the Memorandum and Articles of Association, copy of the Financial Statement of the Holding Company and also the Board Resolution of the Petitioner Company. I have seen the financial statement and consent given by the Holding Company.

Section 2(41) of the Companies Act, 2013 enforced with effect from 1st April 2014 which reads as follows:-

“financial year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up;

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year.”

Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause;”



I have perused the report of the Registrar of Companies, Karnataka, Bangalore vide letter No. ROCB/MMM/SEC 2(41)/Tavant/2015 dated 4th July 2017, who reported that request of the Petitioner Company **“Tavant Technologies India Private Limited”** for following the financial year from 1st January to 31st December may be considered and made an observation that the case may be decided on merits.

After hearing the Practicing Company Secretary for the Petitioner Company and after going through the documents filed and the report of the Registrar of Companies, Karnataka, Bangalore, I am of the opinion that, the Petitioner Company can be permitted to follow its financial year from 1st January to 31st December.

In the result petition is allowed, Petitioner Company **“Tavant Technologies India Private Limited”** is permitted to follow its financial year from 1st January to 31st December to match with the financial year adopted by the Holding Company.


(RATAKONDA MURALI)
MEMBER, JUDICIAL