

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

C.P. No.24/2017

**IN THE MATTER OF COMPANIES ACT, 1956 AND
IN THE MATTER OF COMPANIES ACT, 2013 UNDER SECTION 441
FOR COMPOUNDING OF OFFENCE UNDER SECTION
96 OF THE COMPANIES ACT, 2013
AND
IN THE MATTER OF
M/s SEGULA TECHNOLOGIES INDIA PRIVATE LIMITED**

Judgement/Order delivered on: 5th July 2017

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

For the Petitioner (s) Mr. Abhishek Bharadwaj A.B, No. 84, Puttanna Road, Conservancy Lane, Gandhi Bazaar, Basavanagudi, Bangalore-560004- Practicing Company Secretary and Authorised Representative for the Applicant.

Per: Hon'ble Shri Ashok Kumar Mishra, Member (Technical) – Author

ORDER

The Application was filed by the Applicant Company under Section 441 of the Companies Act, 2013 for the purpose of compounding for violation of provisions of Section 96 of the Companies Act, 2013 and it was numbered as C.P No. 24/2017 in this Tribunal.

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

The Applicant Company was incorporated under the Companies Act, 1956 on 15th June 2006 as a Private Limited Company under the name and style of "Segula Technologies India Private Limited" vide Registration No. **U74210KA2006PTC039720**. The Registered office of the company is situated at No.1, Tech Park Business Centre, Innovator Building, International Tech Park, Whitefield Road, Bangalore-560066.

It is further averred in the Company Application that, this Application is filed by the Applicant Company which is represented by its present Director, Mr. Dwijottam Ganguli for the purpose of compounding for violation of provisions of Section 96 of the Companies Act, 2013.




As per the averments made in the petition dated 20th September 2016, the authorized capital of the Applicant Company is Rs. 5,00,000/- divided into 50,000 Equity Shares of Rs 10/- each and the issued, subscribed and paid up share capital of the Company is Rs. 5,00,000/- divided into 50,000 Equity Shares of Rs 10/- each.

The Main objects of the Applicant Company is to carry on business of providing Engineering, technical, consulting and other related and value added services in the areas of industrial projects, manufacturing production of capital goods, urban planning, civil engineer and computer science; to undertake operational developmental activities and provide consulting services; to provide and undertake technical support and know how, expertise training and related services and activities in relation to the foregoing objects etc., Details of the objects of the Company are mentioned in the Memorandum and Articles of Association of the Applicant Company.

It is further averred in the Company Application that, the Applicant Company could not hold the Annual General Meeting for the financial year 2014-15 within the stipulated period as required under Section 96 read with Section 99 of the Companies Act, 2013 to place before the Board of Directors for approval of the Financial Statements for the year ending 31st March 2015 within the time allowed due to inadvertent delay in completing the audit process by the Statutory auditors of the Company. The Audited financial statements for the ending 31st March 2015 were not ready to be presented to the shareholders on the due date of holding the Annual General Meeting and thereby contravened the provisions of Section 96 read with Section 99 of the Companies Act, 2013. However, the 1st Applicant Company has held the Annual General Meeting on 1st May 2016 with a delay of 214 days.

It is also averred in the Company Application that, the above offence committed by the Applicant Company due to the unforeseen circumstances and beyond the control of the Company and it was not intentional and is not of such nature as to prejudice the interest of the Members or Creditors or others dealing with the Applicant Company. The Applicant Company unequivocally declares that the offences committed, do not affect the public interest, in any way and no harm is caused to the public interest.



The Applicant Company represented by its Director suo-moto filed this application admitting violation and prayed for compounding. Thus there was violation of provisions of section 96 of the Companies Act, 2013.

The provisions of section 96 of the Companies Act, 2013 reads as follows:-

“Every company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:

Provided that in case of the first annual general meeting, it shall be held within a period of nine months from the date of closing of the first financial year of the company and in any other case, within a period of six months, from the date of closing of the financial year:

Provided further that if a company holds its first annual general meeting as aforesaid, it shall not be necessary for the company to hold any annual general meeting in the year of its incorporation:

Provided also that the Registrar may, for any special reason, extend the time within which any annual general meeting, other than the first annual general meeting, shall be held, by a period not exceeding three months.”

For violation of provisions of section 96 is punishable under section 99 of the Companies Act, 2013 which reads as follows:-

If any default is made in holding a meeting of the company in accordance with section 96 or section 97 or section 98 or in complying with any directions of the Tribunal, the company and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues.

We have heard the Practicing Company Secretary for Applicant on 08/06/2017. The Practicing Company Secretary contended that, the default occurred due to unavoidable circumstances and beyond the control of the Applicant Company. The Practicing Company Secretary for Applicant further contend that, the Applicant Company had complied with the requirement of Section 96 of the Companies Act, 2013 and filed true copy of the Notice for convening the Annual General Meeting on 1st May 2016. The Practicing Company Secretary for Applicant further contend that, this is a suo-moto application filed by the Applicant Company which is represented by its Director for compounding of violation.



The Registrar of Companies, Karnataka, Bangalore vide its letter bearing No. ROCB/PS/441/39720/2017 dated 1st May 2017 has stated in his report that, the Company has admitted the default and has offered to compound the offence and the Compounding Application may be decided on merits.

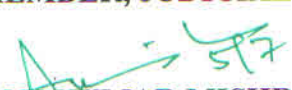
We have seen the Certified Copy of the extract of Board Resolution dated 15th July 2016 of the Applicant Company wherein the Board of Directors resolved for filing compounding Application, Copy of Notice for holding the Annual General Meeting. After considering the materials on record and after taking into account the submissions made by the Practicing Company Secretary that lenient view may be taken, we hereby levy compounding fee for delay in complying section 96 of the Companies Act, 2013 on the Applicant Company as shown in the table given below:-

Sl. No.	Particulars	Violation of Sec.96 of Companies Act, 2013		Total Rs.
		For violation	214 days delay	
1	Applicant Company	20,000/-	500/- x 214 =1,07,000/-	1,27,000/-

In pursuant to our Order dated 21/06/2017 mentioned herein above, the Applicant have paid the compounding fee by depositing Demand Draft bearing No. 005507 dated 27/06/2017 for Rs. 1,27,000/- (Rupees One Lakh Twenty seven thousand only) of Axis Bank Ltd., drawn in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai".

As the compounding fee has been remitted by the Applicant, the offence stated in the petition is compounded. A copy of this Order be sent to Registrar of Companies, Karnataka at Bangalore for appropriate action.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL