

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
T.P.NO. 236/2016

IN

CA NO. 305/621A/CB/2015

(DATED: FRIDAY THE 6TH JANUARY 2017)

*PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI. ASHOK KUMAR MISHRA, MEMBER TECHNICAL*

IN THE MATTER OF THE COMPANIES ACT, 2013
SECTION 621A UNDER SECTION 210 OF THE COMPANIES ACT, 1956
AND
IN THE MATTER OF M/s GLOBAL ENTRAPOLIS (VIZAG)
PRIVATE LIMITED

T.P No. 236/2016 IN CA NO. 305/621A/CB/2015

1. M/S Global Entrapolis (Vizag) Private Limited
40/43, 8th Main, 4th Cross,
RMV Extension,
Sadashivanagar,
Bangalore-560080.
2. Mr. Asokan Sarangulam Seshadri – Director,
No. B-204, Shivaranjini Apts,
1st East 'C' Main Road,
ITI Layout, Near Vidya Pitta Circle,
Bangalore-560085
3. Mr. Murali Malayappan- Director,
No.E1-405/406, 4th Floor,
15th Cross, 2nd Block,
R.T Nagar,
Bangalore-560032.
4. Mr. Ravichandran Venkataraman- Director
No.224, Esteem Deluxe-II,
Right House Apartments,
Mullai Nagar,
Maruthamalai Road, PN Pudur Post,
Coimbatore-641024
5. Mr. Ramaswamy.K – Company Secretary
No.524, Varadaraja Road,
Bhuvaneswarinagar,
R.T.Nagar Post,
Bangalore-560032.

- APPLICANTS

PARTIES PRESENT:

Sri K.V. Omprakash, Conscientia Law Associates,
76/1, 1st Floor, 7th Cross, Wilson Garden,
Bangalore-560027 - Counsel and Authorised
representative for the Applicants.

Heard on: 18/08/2016, 30/08/2016, 19/09/2016, 06/10/2016, 26/10/2016,
21/11/2016 and 14/12/2016.



ORDER

The Application is filed on behalf of the Applicants under Section 621A of Companies Act 1956 before the Company Law Board, Southern Region, Chennai. It was numbered as C.A.305/621A/CB/2015. Consequent upon the establishment of National Company Law Tribunal Bench at Bengaluru, the said case was transferred to this Tribunal on abolition of Company Law Board, Southern Region, Chennai Bench. It is renumbered as T.P No. 236/2016 on the file of this Tribunal. This petition is filed by the Applicants with a prayer to record compounding for violation of provisions of section 210 of the Companies Act, 1956.

The averments in the Company Application are briefly stated hereunder:

The 1st Applicant is a company which was incorporated under the Companies Act, 1956 on 19th March 2008 under the name and style "GLOBAL ENTRAPOLIS (VIZAG) PRIVATE LIMITED" vide Corporate Identity No. U45202KA2008PTC045671. The Registered Office of the company is situated at # 40/43, 8th Main, 4th Cross, RMV Extension, Sadashivanagar, Bangalore-560080.

The Authorised Share Capital of the Applicant company at the time of incorporation was Rs 1,00,00,000/- (Rupees one crore only) divided into 10,00,000 (Ten lakhs only) Equity Shares of Rs 10/- (Rupees Ten only) each and the Subscribed Capital was Rs 1,00,000/- (Rupees one lakh only) divided into 10,000 (Ten Thousand only) Equity Shares of Rs 10/- (Rupees ten only) each. The Present Authorized Share Capital of the Applicant Company is Rs. 22,12,00,000/- (Rupees Twenty two crores twelve lakhs only) consisting of 1,30.25,000 (One Crore thirty lakhs twenty five thousand) Class A Equity Shares of Rs 10/-each, 65,95,000 (Sixty Five lakhs Ninety Five thousand) Class B Equity Shares of Rs 10/- (Rupees Ten only) each and 25,00,000 (Twenty Five lakhs) Class C Equity Shares of Rs 10/- (Rupees Ten only) each and the Paid up Share Capital is Rs 22,10,70,000/- (Rupees Twenty Two Crores Ten Lakhs Seventy Thousand only) divided into 1,30,24,000 (One Crore Thirty Lakhs Twenty Four Thousand) Class A Equity Shares of Rs 10/- each 65,93,000 (Sixty Five Lakhs Ninety three thousand) Class B Equity Shares of Rs 10/- each and 24,90,000 (Twenty four lakhs Ninety Thousand) Class C Equity Shares of Rs 10/- each. The 1st Applicant is Company, Applicants 2 to 4 are the Directors and Applicant No.5 is Company Secretary.



The 1st Applicant Company was incorporated for carrying on the business set out in Clause III of the Memorandum of Association, as shown in Annexure-II.

The main object of the company is to carry out the business of developers, maintainers, up-keepers, designers. To carry on all or any of the business of proprietors of lands, flats, massionettes. To acquire by purchase, lease, exchange rent or otherwise and deal in lands, etc., Details of the main object of the Company are stated in the Memorandum of Association.

The 1st Applicant Company is a fully owned subsidiary of M/s Shriram Properties Private Limited. The financial year is 1st April to 31st March.


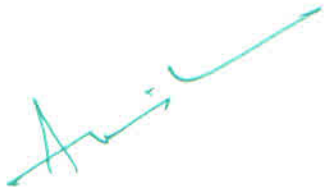
It is averred in the company petition that, the 1st Applicant Company could not finalise the accounts and audit in a timely manner due to reasons beyond the control of the Company and could not hold the Annual General Meeting by 30/09/2014 and as a result there was inordinate delay of 52 days in finalizing the annual accounts and conducting Annual General Meeting for the financial year 2013-14 and as such, the Applicants violated the provisions of Section 210 of the Companies Act, 1956.

The Directors admitted default of provisions of sub-section (1) of section 210 of the Companies Act, 1956 by not placing Audited accounts of the company at the Annual General Meeting on the due date, but placing the audited accounts later on 21st November 2014.

The Annual Returns for the financial year 2013-14 is shown in Annexure-III. Thus it is also stated in the Petition that default committed under Section 210 of the Companies Act, 1956, is unintentional and occurred inadvertently. Therefore, Applicants suo-moto filed this Application to compound the violation.

Section 210(1) of the Companies Act, 1956, provides that:-

At every annual general meeting of a company held in pursuance of section 166, the Board of directors of the company shall lay before the company –

- (a) a balance sheet as at the end of the period specified in sub-section (3); and
 - (b) a profit and loss account for that period.
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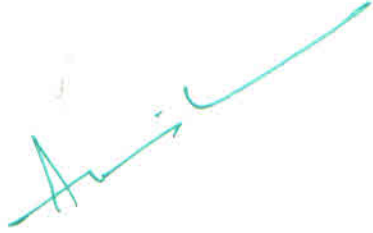

For the violation of section 210(1) of the Companies Act, 1956, the punishment is provided under sub-section (5) of section 210 of the Companies Act, 1956 which reads as follows:-

“If any person, being a director of a company, fails to take all reasonable steps to comply with the provisions of this section, he shall, in respect of each offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to Rs 10,000/- or with both:”

This Application was filed under section 621A of the Companies Act, 1956. The provisions of section 441 of the Companies Act, 2013 came into effect from 1st June 2016. Before erstwhile Company Law Board, Southern Region, Chennai this application was filed. Therefore, this application is to be decided under the provisions of section 621A of the Companies Act, 1956.

We have heard the Counsel for Applicants. It is contended that the delay in not placing Audited accounts of the company at the Annual General Meeting on the due date was due to reasons beyond the control of the Company. However, the 1st Applicant Company placed the audited accounts later on 21st November 2014.

We have perused the documents filed by the Petitioners. We have seen the Board Resolution marked as Annexure-I wherein the Board has passed a resolution to file necessary Compounding Application. We have seen the Memorandum of Association marked as Annexure-II and Minutes of Annual General Meeting held on 21st November 2014 and after going through the Company Petition under section 621A of the Companies Act, 1956 and further submissions made by the Counsel for Applicants and the observations of the Registrar of Companies, we direct the Applicants No. 2 to 5 to pay the compounding fee as detailed hereunder:-



Sl. No.	Particulars	Violation of Sec.210 of Companies Act, 1956	Grand Total Rs.
1	2 nd Applicant-Director	6,000/-	6,000/-
2	3 rd Applicant - Director	6,000/-	6,000/-
3	4 th Applicant -Director	6,000/-	6,000/-
4	5 th Applicant - Company Secretary	6,000/-	6,000/-

In pursuant to our Order dated 23/12/2016 mentioned herein above, the Applicants have paid the compounding fee by depositing Demand Draft for Rs. 24,000/- (Rupees Twenty four thousand only) of Syndicate Bank, Sadashivanagar Branch, Bangalore drawn on 30/12/2016 in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai" as detailed hereunder:-

Sl. No.	D.D No.	Date	Amount Rs.
1	978622	30/12/2016	6,000/-
2	978618	30/12/2016	6,000/-
3	978621	30/12/2016	6,000/-
4	978623	30/12/2016	6,000/-
	Total		24,000/-

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


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 6th DAY OF JANUARY 2017