

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

**T.P.NO. 272/2016**

**(DATED: FRIDAY THE 6<sup>TH</sup> JANUARY 2017)**

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

**IN THE MATTER OF COMPANIES ACT, 2013  
SECTION 621A READ WITH SECTION 292A OF THE COMPANIES ACT, 1956  
AND**

**IN THE MATTER OF M/S IZMO LIMITED  
(Formerly known as LOGIX MICROSYSTEMS LIMITED)**

**T.P. No. 272/621A/2016**

1. M/S Izmo Limited  
# 177/2C, Billekahalli Industrial Area,  
Bannerghatta Road,  
Bangalore-560076.
2. Mr. Sanjay Soni, Managing Director,  
Flat No.9,  
Prestige Casablanca Apartments,  
12/1, Airport Road,  
Bangalore-560017
3. Ms. Shashi Soni, Whole Time Director,  
Flat No.9,  
Prestige Casablanca Apartments,  
12/1, Airport Road,  
Bangalore-560017

- **APPLICANTS**

**PARTIES PRESENT:**

Mr. S. Manjunath, Advocate, # 9, "Manjushree"  
3<sup>rd</sup> Floor, West Link Road, Malleswaram,  
Bangalore-560003, Authorised representative for  
the Applicants.

Heard on: 16/08/2016, 01/09/2016, 26/09/2016, 26/10/2016, 09/11/2016  
and 30/11/2016.

**ORDER**

The Application was originally filed before the Company Law Board, Southern Region, Chennai under Section 621A of the Companies Act, 1956 for purpose of compounding for violation of provisions of section 292A of the Companies Act, 1956. 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 and numbered as T.P No. 272/16/621A/2016.

The averments in the petition are briefed hereunder:-

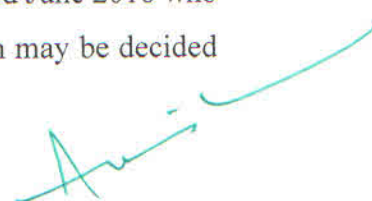

The 1<sup>st</sup> Applicant Company was originally incorporated on 08<sup>th</sup> September 1995 in the name and style of M/s LOGIX MICROSYSTEMS LIMITED and subsequently changed to M/s IZMO LIMITED with effect from 06<sup>th</sup> August 2014 vide Registration No. L72200KA1995PLC018734. The Registered office of the 1<sup>st</sup> Applicant company is situated at # 177/2C, Billekahalli Industrial Area, Bannerghatta Road, Bangalore-560076.

The Applicants No. 2 and 3 are the Directors of the 1<sup>st</sup> Applicant Company. The Authorized share capital of the applicant company as per the latest Audited Balance sheet on 31/03/2015 is Rs. 13,20,00,000/- (Rupees Thirteen Crores twenty lakhs only) consisting of 1,32,00,000 (One crore thirty two lakhs) Equity Shares of Rs 10/- each. The Company is a listed company on Bombay Stock Exchange and National Stock Exchange.

The Main objects of the 1<sup>st</sup> Applicant Company is to carry on the business as manufacturers, dealers, importers and exporters of electronic equipments of all kinds and description, to carry on the business as manufacturers and dealers in scientific instruments and research instruments required in the field of electronics and vacuum technology, to establish a research and development unit, to carry on the business of electrical engineers etc., details of the objects of the company are mentioned in the Memorandum and Articles of Association.

It is averred in the Petition that the 1<sup>st</sup> Applicant company has made an application under section 621A read with section 292A of the Companies Act, 1956 for compounding the offence as the Audit Committee has failed to discuss the matter of payment of excess remuneration paid to the Managing Director since 2007-2008 and the frequent qualification by the statutory auditors. Thus there was non-compliance of Section 292A of the Companies Act, 1956. It is further averred in the petition that, the violation occurred is technical in nature and is not intentional and that there is no Mens Rea involved. The petition is filed suo-moto by the Applicants based on Board Resolution dated 13<sup>th</sup> February 2016. It is therefore, prayed to compound the violation.


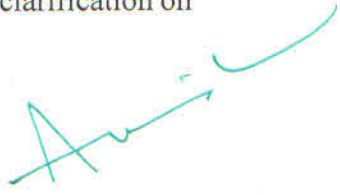
We have heard the Counsel for Applicants Sri S. Manjunath. He prayed for compounding for the violation by taking a lenient view. Report from the Registrar of Companies, Karnataka, Bangalore was received on 3rd June 2016 who recommended for compounding and further reported that petition may be decided on merits.





We have gone through the documents filed by the Petitioners, we have seen Memorandum and Articles of Association, Annual Report for the financial year 2014-15, copy of Board Resolution dated 13<sup>th</sup> February 2016 where in the Board resolved to file compounding application for violation of various provisions of the Companies Act, 1956. We have gone through the Affidavit of the 2<sup>nd</sup> Applicant the Managing Director.

Section 292A of the Companies Act, 1956 reads as follows:

- (1) Every public company having such paid-up capital of not less than five crores of rupees shall constitute a committee of the Board known as "Audit Committee" which shall consist of not less than three directors and such number of other directors as the Board may determine of which two-thirds of the total number of members shall be directors, other than managing or whole-time directors.
  - (2) Every Audit Committee constituted under sub-section (1) shall act in accordance with terms of reference to be specified in writing by the Board.
  - (3) The members of the Audit Committee shall elect a chairman from amongst themselves.
  - (4) The annual report of the company shall disclose the composition of the Audit Committee.
  - (5) The auditors, the internal auditor, if any, and the director-in-charge of finance shall attend and participate at meetings of the Audit Committee but shall not have the right to vote.
  - (6) The Audit Committee should have discussions with the auditors periodically about internal control systems, the scope of the observations of the auditors and review the half-yearly and annual financial statements before submission to the Board and also ensure compliance of internal control systems.
  - (7) The Audit committee shall have authority to investigate into any matter in relation to the items specified in this section or referred to it by the Board and for this purpose, shall have full access to information contained in the records of the company and external professional advice, if necessary.
  - (8) The recommendations of the Audit Committee on any matter relating to financial management, including the audit report, shall be binding on the Board.
  - (9) If the Board does not accept the recommendations of the Audit Committee, it shall record the reasons therefor and communicate such reasons to the shareholders.
  - (10) The chairman of the Audit Committee shall attend the annual general meetings of the company to provide any clarification on matter relating to audit.
- 
- 

- (11) If a default is made in complying with the provisions of this section, the company, and every officer who is in default, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to fifty thousand rupees, 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 1<sup>st</sup> 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.

Thus it is clear that, the Company and the Directors herein violated the provisions of section 292A of the Companies Act, 1956. After considering the documents filed, report of the Registrar of Companies, Karnataka, Bangalore and submissions made by the Counsel for the Petitioner, we are of the opinion that violation can be compounded by levying the compounding fee as shown below in the table:

Sl. No.	Particulars	Violation of Sec.292A of Companies Act, 1956	Grand Total Rs.
1	1 <sup>st</sup> Applicant Company	20,000/-	20,000/-
2	2 <sup>nd</sup> Applicant- Managing Director	20,000/-	20,000/-
3	3 <sup>rd</sup> Applicant- Whole Time Director	20,000/-	20,000/-

In pursuant to our Order dated 22/12/2016 mentioned herein above, the Applicants have paid the compounding fee by depositing Demand Draft for Rs. 60,000/- (Rupees Sixty thousand only) of Axis Bank Ltd., Bangalore drawn on 29/12/2016 in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai" as detailed hereunder:-

Sl. No.	Particulars	D.D No.	Date	Amount Rs.
1	1 <sup>st</sup> Applicant Company	033039	29/12/2016	20,000/-
2	2 <sup>nd</sup> Applicant- Managing Director	033048	29/12/2016	20,000/-
3	3 <sup>rd</sup> Applicant- Whole Time Director	033049	29/12/2016	20,000/-

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 6<sup>th</sup> DAY OF JANUARY 2017