

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
T.P.NO. 271/2016

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

IN THE MATTER OF COMPANIES ACT, 2013
SECTION 621A READ WITH SECTION 417 OF THE COMPANIES ACT, 1956
AND

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

T.P. No. 271/621A/2016

1. Mr. Sanjay Soni, Managing Director,
Flat No.9,
Prestige Casablanca Apartments,
12/1, Airport Road,
Bangalore-560017
2. Ms. Shashi Soni, Whole Time Director,
Flat No.9,
Prestige Casablanca Apartments,
12/1, Airport Road,
Bangalore-560017.
3. Mr. Vijay Gupta, Director
Deep Mandap LBS Marg,
Mulund (W)
Mumbai-400080.
4. Mr. Roop Singh Chawhan, Director
453, 4th Main, 6th Cross,
J.P.Nagar, 3rd Phase,
Bangalore-560078.

- APPLICANTS

PARTIES PRESENT:

Mr. S. Manjunath, Advocate, # 9, "Manjushree"
3rd 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 417 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. 271/16/621A/2016.

The averments in the petition are briefed hereunder:-

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

The Applicants No. 1 to 4 are the Directors of the Company. The Authorized share capital of the 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 Company is to carry on the business as manufacturers of, dealers in, 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 Applicant have made an application under section 621A read with section 417 of the Companies Act, 1956 for compounding the offence for non-remittance of provident fund within the due date for the financial year 2013-14 (for the period from March 2012 to September 2013 aggregating to Rs 58,60,750/-). The violation was subsequently made good by the Company by duly remitting the Provident fund amount to the concerned authority on 1st August 2014 in full along with interest and penalty thereon.

Section 417(1) of the Companies Act, 1956 reads as follows:-

“Any money or security deposited with a company by any of its employee in pursuance of his contract of service with the company shall be kept or deposited by the company within fifteen days from the date of deposit-”

The punishment for such violation is provided under 420 of the Companies Act, 1956 which reads as follows:-

“Any officer of a company, or any such trustee of a provident fund as is referred to in sub-section (4) of section 418 who, knowingly, contravenes, or authorizes or permits the contravention of the provisions of section 417, 418 or 419, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to Rs 10,000/-”

Thus there was non-compliance of Section 417 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 13th 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 vide letter No. ROCB/SVK/18734/621A/2014 dated 6th July 2016 who recommended for compounding and further reported that petition may be decided on merits.

We have gone through the documents filed by the Applicants. We have seen copy of Board Resolution dated 13th February 2016 where in Board resolved to file compounding application for violation of various provisions of the Companies Act, 1956. Certified copies of the challan of Provident fund amount remitted to the Employees Provident Fund Organisation, Bommasandra, Bangalore through State Bank of India, Bangalore on 1st August 2014.

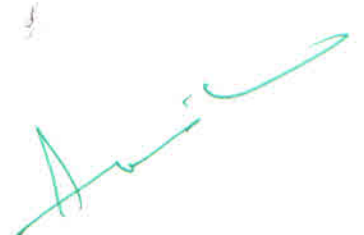
It is further averred that the default is not intentional. Affidavit of 1st Applicant is filed along with copies of challans. It is stated that, Provident Fund dues were remitted in full.

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.

Thus it is clear that, the Directors herein violated the provisions of section 417 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 Applicants, 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.417 of the Companies Act, 1956	Grand Total Rs.
1	1 st Applicant- Managing Director	5,000/-	5,000/-
2	2 nd Applicant- Whole Time Director	5,000/-	5,000/-
3	3 rd Applicant- Director	5,000/-	5,000/-
4	4 th Applicant- Director	5,000/-	5,000/-

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. 20,000/- (Rupees Twenty 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 st Applicant-Managing Director	033040	29/12/2016	5,000/-
2	2 nd Applicant-Whole Time Director	033041	29/12/2016	5,000/-
3	3 rd Applicant-Director	033042	29/12/2016	5,000/-
4	4 th Applicant-Director	033038	29/12/2016	5,000/-

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 at Bangalore for appropriate action.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 23rd DAY OF JANUARY 2017