

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH  
T.P.NO. 248/2016**

**IN**

**C.A. NO. 38/621A/CB/2016**

**DATED: TUESDAY THE 25<sup>th</sup> DAY OF APRIL 2017**

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

**IN THE MATTER OF COMPANIES ACT, 1956  
UNDER SECTION 297 READ WITH SECTION 621A  
OF THE COMPANIES ACT, 1956**

**AND**

**IN THE MATTER OF M/s MANIPAL INTEGRATED SERVICES  
PRIVATE LIMITED**

**C.A. NO. 38/621A/CB/2016 IN T.P.NO. 248/2016**

**M/S Manipal Integrated Services Private Limited,  
B-1 Tower, 3<sup>rd</sup> Floor, Golden Enclave,  
Old Airport Road, Bangalore-560017.**

**Petitioner**

**PARTIES PRESENT:**

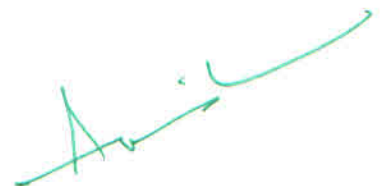
Ms. Jyotika Kamath, #3314/1, 13th Main, 7th Cross,  
HAL 2nd Stage, Indiranagar, Bangalore-560008 -  
Practicing Company Secretary & Authorised  
Representative for the Petitioner.

Heard on: 26/07/2016, 04/08/2016, 30/08/2016, 31/08/2016, 21/09/2016,  
19/10/2016, 07/11/2016, 16/11/2016, 24/11/2016, 08/12/2016,  
09/01/2017, 20/01/2017, 13/02/2017 and 3/03/2017

**ORDER**

The Application was originally filed before the Company Law Board, Southern Region, Chennai under Section 621A of the Companies Act, 1956 for the purpose of compounding for violation of provisions of Section 297 of the Companies Act, 1956 and it was numbered as C.A 38/2016. Consequent upon the establishment of National Company Law Tribunal Bench at Bengaluru, the said Application was transferred to this Tribunal on abolition of Company Law Board, Southern Region, Chennai Bench and re-numbered as T.P No. 248/2016.

The averments made in the Company Application are briefly described hereunder:-

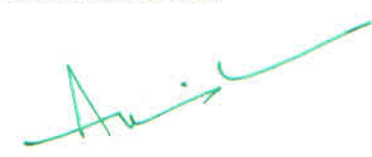
The Petitioner Company was incorporated under the Companies Act, 1956 on 9<sup>th</sup> January 2004 as a Private Limited Company in the name and style of "Manipal Integrated Services Private Limited" vide CIN No. **U74140KA2004PTC033168**. The Registered office of the company is situated at B-1 Tower, 3<sup>rd</sup> Floor, Golden enclave, Old Airport Road, Bangalore-560017.

The Authorized share capital of the Petitioner Company is Rs. 20,00,00,000/- consisting of 2,00,00,000 Equity Shares of Rs 10/- each.

The Main objects of the Petitioner Company is engaged in the business of providing all or any types, description, classifications, kinds, forms and varieties of services, including but not limited to facilities management service, student staying facility, housekeeping, equipment repair, laundry and linen management, food service management, transport and logistic management, IT based marketing, advertising relating to sales, distribution, for specialized training to any persons whomsoever in the field of integrated facilities management services etc.,

It is averred in the Company Application that, during the period from 3<sup>rd</sup> November 2010 to 31<sup>st</sup> March 2014 the Petitioner Company has entered into a contract with Manipal Global Education Services Private Limited in which certain Directors are interested to provide Ancillary services like facility management and support services, Security services, catering services/Food services, Hostel Services and to avail subleasing services on certain terms and conditions for the mutually agreed professional fees which is rounded off to Rs 41,32,08,975/- but due to oversight the Central Government approval was not obtained for the agreement and the period of default is from 3<sup>rd</sup> November 2010 to 31<sup>st</sup> March 2014, thereby there was a delay of 1243 days. It is further averred that, the company has obtained shareholders approval for all the related party transactions entered by the Company w.e.f. 1<sup>st</sup> April 2014 and complied with Section 188 of the Companies Act, 2013 and also filed e-forms MGT 14 with the Registrar of Companies.

Thus there was violation of provisions of section 297 of the Companies Act, 1956. This suo-motto application is filed by the Petitioner Company under section 621A of the Companies Act, 1956 for compounding the violation of section 297 of the Companies Act, 1956 which is punishable under section 629A of the Act.



Section 297 (1) of the Companies Act, 1956 reads as follows:-

“Except with the consent of the Board of Directors of a company, a director of the company or his relative, a firm in which such a director or relative is a partner, any other partner in such a firm, or a private company of which the director is a member or director, shall not enter into any contract with the company –

(a) for the sale, purchase or supply of any goods, materials or services, or

(b) after the commencement of this Act, for underwriting the subscription of any shares in, or debentures of, the Company”.

Provided that in the case of a company having a paid- up share capital of not less than rupees one crore, no such contract shall be entered into except with the previous approval of the Central Government.

Prior approval of the Central Government was not obtained in entering into agreement. Thus there was violation of section 297 of the Companies Act, 1956 which is punishable under section 629A which reads as follows:-

“If a company or any other person contravenes any provision of this Act for which no punishment is provided elsewhere in this Act or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to Rs 5,000/- and where the contravention is a continuing one, with a further fine which may extend to Rs. 500/- for every day after the first during which the contravention continues”.

During the course of enquiry, the Practicing Company Secretary has filed details of transactions of the Petitioner Company during the period at arms' length basis as per market value and further giving details of the Board Meeting held for passing of resolution for execution of agreement between related parties. She has also enclosed the copies of Board Resolutions approving the transactions.

We have heard Practicing Company Secretary for Petitioner Company who contended that transactions are at the arms' length and based on market value. The Practicing Company Secretary also filed written submissions and contended that violation can be compounded under section 621A of the Companies Act, 1956. The Practicing Company Secretary relied on resolution dated 15<sup>th</sup> September 2014, the Resolution passed to the effect for approving the related party transactions. She further contended that board has approved the transactions by way of resolution, but due to oversight approval from the Central Government was not obtained. The

volume of transaction is enclosed with the petition. She prayed to take lenient view while compounding the violation. On perusal of the record, it appears that there is some confusion with regard to the Directors who were in default and originally Company petition was filed by the Company only for compounding and during the course of hearing on 13<sup>th</sup> March 2017, the Practicing Company Secretary for Petitioner Company contended that, the offence may be compounded only against the Company which has filed the original application for compounding.

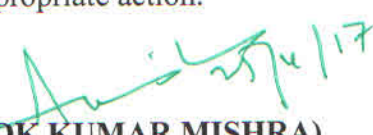
We have perused the documents filed along with application, we have seen extract of the Minutes of the meeting of the Board Meeting held 15<sup>th</sup> September 2014. Report from the Registrar of Companies, Karnataka at Bangalore was received vide letter No. ROCB/MMM/621A/033168/2015 dated 27/08/2015. He recommended that the application may be decided on merits and after going through the Company Petition under section 621A of the Companies Act, 1956 and further submissions made by the Practicing Company Secretary for the Petitioner company and the observations of the Registrar of Companies, we hereby propose to levy the compounding fee on the Petitioner Company as set out in the table given hereunder:-

| Sl. No. | Particulars        | Violation of Sec.297(1) of the Companies Act, 1956 | No. of days delay       | Total Rs. |
|---------|--------------------|----------------------------------------------------|-------------------------|-----------|
| 1       | Petitioner Company | Rs. 1,000/-                                        | 1243 x 50<br>= 62,150/- | 63,150/-  |

In pursuant to our Order dated 7<sup>th</sup> April 2017 mentioned herein above, the Petitioner Company have paid the compounding fee by depositing Demand Draft bearing No. 003439 dated 24/04/2017 for Rs. 63,150/- (Rupees Sixty three thousand one hundred fifty only) of IDFC Bank Limited, Bangalore drawn in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai".

As the compounding fee has been remitted by the Petitioner Company, 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 25<sup>th</sup> DAY OF APRIL, 2017