

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

**T.P NO. 199/16
IN
C.A. No.251/2015**

**IN THE MATTER OF COMPANIES ACT, 2013
SECTION 621A UNDER SECTION 211(3A) OF THE COMPANIES ACT,
1956 AND READ WITH ACCOUNTING STANDARD-18 OF COMPANIES
(ACCOUNTING STANDARDS) RULES, 2006**

AND

IN THE MATTER OF B.M.M. ISPAT LIMITED

Judgement/Order delivered on: **1st February 2018**

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

**1. Shri Dineshkumar Singhi- Director,
B.M.M. Ispat Limited,
No.101, 1st Floor, Pride Elite, No.10,
Museum Road, Bengaluru-560001.**

**2. Shri Mrutyunjaya Senapati- Director,
B.M.M. Ispat Limited,
002, Aster Block, Fantasy Gardens Apt.,
2nd Main Road, Kasturinagar,
Bengaluru -560043.**

APPLICANTS

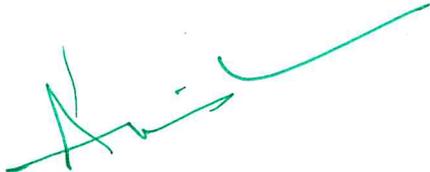
For the Petitioner (s): Sri A.M.Sridharan, II Floor, 24, Thambaiiah Reddy
Road, West Mambalam, Chennai-600033-
Counsel and Authorised Representative for the
Petitioner.

Per: **Hon'ble Shri Ratakonda Murali, Member (Judicial)**– Author

Heard on: 28/10/2016, 22/11/2016, 14/12/2016, 18/01/2017, 31/01/2017,
01/03/2017, 20/04/2017, 22/06/2017, 25/07/2017, 10/08/2017,
30/08/2017, 22/09/2017, 09/10/2017, 31/10/2017, 23/11/2017
& 18/12/2017

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 211(3A) of the Companies Act, 1956 and Accounting Standard-18 of Companies (Accounting Standards) Rules, 2006 and it was numbered as C.A 251/2015. 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 and re-numbered as T.P No. 199/2016.



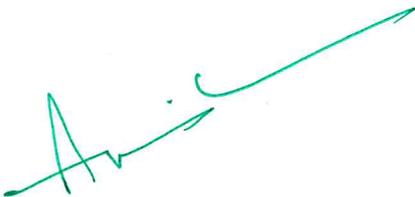

The averments made in the Company Application are briefly described hereunder:-

The Company was originally incorporated under the Companies Act, 1956 on 15th April 2002 as a Private Limited Company under the name and style of B.M.M Iron ore Private Limited. Subsequently the company was converted into a Public Company on 15th December 2004 and changed its name to B.M.M. Ispat Limited vide Registration No. CIN-U13100KA2002PLC030365. The Registered office of the company is situated at # 114, Danapur Village, Hobli Mariamanahalli, Hospet Taluq, Bellary District – 583222.

The present Authorized share capital of the Company is Rs. 160,00,00,000/- (Rupees One Hundred and Sixty Crores only) consisting of 16,00,00,000 Equity Shares of Rs 10/- each. The issued, subscribed and paid up capital is Rs. 104,06,18,460/- consisting of 10,40,61,846 equity shares of Rs 10/- each.

The Main objects of the Company is to carry on the business of prospecting, exploring and developing, opening and working of mines for minerals and ores and to obtain mining licenses and lease for ores and minerals from Government or any local body; to purchase, take on lease or in exchange, hire or otherwise acquire, any movable property; to act as agents, Managers, selling agents transport contractors for mineral ores and other allied products; to promote, take over or set up sponge iron plants, mini steel plants, and alloys and is currently doing the business in manufacturing of pellets, sponge iron, TMT bars and generation of power etc., Details of the objects of the Company are mentioned in the Memorandum of Association of the Company.

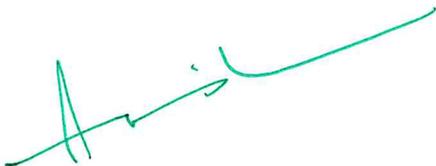
It is averred in the Company Application that, 1st Applicant is a promoter/ Director of the Company since its incorporation and was appointed as Managing Director of the Company on 30th April 2007 and resigned as Managing Director on 20th April 2015 and presently he is the Chairman of the Company and 2nd Applicant is the Whole Time Director of the Company during the time of default.



It is further averred in the Application that, Ms. Snehalata Singhi, wife of the 1st Applicant and the applicant are the promoter Directors of the Company since inception of the Company i.e., from 15/04/2002. They were holding shares in H.K.T Mining Limited. The Company on 27/03/2008 acquired 1,87,499 Equity Shares of Rs 10/- each of H.K.T Mining Limited from the Applicant and from his wife, Ms. Snehalata Singhi another 50 equity shares of Rs 10/- each of the said company. Section 211 (3A) of the Companies Act, 1956 provided that, every profit and loss account and balance sheet of the company shall comply with the Accounting Standards. The said transaction of purchasing of shares by the company from its directors is a related party transaction in terms of Accounting Standard-18. All the related party transactions have to be reported under the notes to accounts of the Balance Sheet of the company under the head “**related party transactions**”. The company in the Balance Sheet as at 31/03/2008 filed with the Registrar of Companies, inadvertently not reported the above said related party transactions under notes on accounts.

It is further averred in the Application that, the Ministry of Corporate Affairs has ordered inspection of the books and records of the Company under section 209A of the Companies Act, 1956, and during the course of inspection the Inspecting Officer found that, non-compliance with the provisions of the Accounting Standard-18 and consequently reported that the company violated the provisions of Section 211 (3A) of the Companies Act, 1956. Though the Company has replied on 23rd September 2013 stating that, due to inadvertently not reported the acquisition of shares under “related party transactions” and submitted that, it is willing to compound the said offence. However, the reply given by the Company was not accepted and accordingly, Registrar of Companies, Karnataka, Bengaluru issued Show Cause Notice bearing No. ROCB/MMM/SCN/SEC 211(3A)/030365/2015 dated 10th April 2015.

However, the Applicants voluntarily admitted that, the company has inadvertently not furnished the related party transactions in relation to acquisition of shares from the applicant and his wife in the notes on accounts in the Balance Sheet as at 31/03/2008 in compliance with Accounting Standard-18 and thereby contravened the provisions of Section 211(3A) of the Companies Act, 1956.



We have heard the Counsel for Applicants, who has filed Affidavit dated 4th October 2017 of the Applicant No.1 herein along with certified copy of the annual Return of HKT Mining Private Limited for the year 2007-08 filed with the Registrar of Companies, Karnataka, Bengaluru, reflecting the above transfers. The learned Counsel contended that, the said contravention committed by the Applicants was neither intentional nor willful and would further contend that, a lenient view may be taken while compounding the offence.

We have seen the Show Cause Notice issued by the Registrar of Companies, Karnataka, Bangalore to the applicants in which, it is clearly stated that, Company has not reported the acquisition of shares under related party transactions of HKT Mining Private Limited in the notes on accounts in the Balance Sheet as at 31/03/2008 in compliance with Accounting Standard-18 and thereby contravened the provisions of section 211(3A) of the Companies Act, 1956 and Accounting Standard-18 of Companies (Accounting Standards) Rules, 2006.

Section 211 (3A) of the Companies Act, 1956 reads as follows:-

“Every profit and loss account and balance sheet of the company shall comply with the accounting standards.”

Section 211(7) of the Companies Act, 1956 is penal provision for violation which reads as follows:-

“If any such person as is referred to in sub-section (6) of section 209 fails to take all reasonable steps to secure compliance by the company, as respects any accounts laid before the company in general meeting, with the provisions of this section and with the other requirements of this Act as to the matters to be stated in the accounts, 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 ten thousand rupees, or with both:

For the said violation, this Tribunal by order dated 18th January 2018 imposed compounding fee on the Applicants as detailed hereunder:-



Sl. No.	Particulars	Violation of Sec.211(3A) of Companies Act, 1956-	Grand Total Rs.
1	1 st Applicant- Managing Director	10,000/-	10,000/-
2	2 nd Applicant- Whole Time Director	10,000/-	10,000/-

In pursuant to our Order dated 18/01/2018 mentioned herein above, the Applicants have paid the compounding fee by depositing 2 Demand Drafts of Kotak Mahindra Bank Limited, Langford Road, Bangalore drawn on 29/01/2018 in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai" as detailed below:-

Sl. No.	Particulars of Applicant	Fee Amount/D.D Rs.	DD No. & Date
1	1 st Applicant- Managing Director	10,000/-	431233 dt. 29/01/2018
2	2 nd Applicant- Whole Time Director	10,000/-	431235 dt. 29/01/2018

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, Bangalore for appropriate action.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDA MURALI)
MEMBER, JUDICIAL