

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

C.A. No.201/621A/CB/2016

IN

T.P No. 283/16

**IN THE MATTER OF COMPANIES ACT, 1956
UNDER SECTION 297(3) READ WITH SECTION 621A
OF THE COMPANIES ACT, 1956**

AND

**IN THE MATTER OF
FLOWSERVE MICROFINISH PUMPS PRIVATE LIMITED**

Judgement/Order delivered on: 12th February 2018

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

1. **Flowserve Microfinish Pumps Private Limited,
CTS No. 568/1, Industrial Area,
Unkal Village, Gokul Road, Hubli-580030.**
2. **Mr. Tilak Karamchand Vikamshi - Managing Director,
No.568,/1, "Vikamshi" House, Akshay Colony,
Opp: Global College, Hubli-580030. -**

APPLICANTS

For the Applicant (s): Mr. Biswajit Ghosh, & Mr. Pramod S.M, No.926,
20th Main, Near BDA Complex, Banashankari 2nd
Stage, Bangalore-560070 -Practicing Company
Secretary & Authorised Representatives for the
Applicants.

Per: **Hon'ble Shri Ashok Kumar Mishra, Member (Technical) – Author**

Heard on: 09/06/2017, 06/07/2017, 03/08/2017, 29/08/2017, 22/09/2017,
06/10/2017, 25/10/2017, 06/11/2017, 17/11/2017, 06/12/2017 &
05/01/2018.

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(3) of the Companies Act, 1956 and it was numbered as C.A 201/2016. 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. 283/2016.

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

The 1st Applicant is the Company and Mr. Tilak Karamchand Vikamshi is the 2nd Applicant/Managing Director. This suo-moto Application is filed by the Applicants for compounding for violation of provisions of Section 297(3) of the Companies Act, 1956.

The 1st Applicant Company was incorporated under the Companies Act, 1956 on 26TH September 1996 as a Private Limited Company under the name and style of "Flowserve Microfinish Pumps Private Limited" vide CIN No. **U85110KA1996PTC021196**. The Registered Office of the Company is situated at CTS No. 568/1, Industrial Area, Unkal Village, Gokul Road, Hubli -580030.

The Authorized share capital of the 1st Applicant Company is Rs. 3,00,00,000/- consisting of 30,00,000 Equity Shares of Rs 10/- each. The Issued, Subscribed and Paid up Share Capital of the Company as on 31st March 2010 is Rs 2,44,46,340/- divided into 24,44,634 Equity Shares of Rs 10/- each.

It is averred in the Company Application that, 1st Applicant Company had carried out related party transactions with Flowserve Microfinish Valves Private Limited for sharing common administration expenses from 1st April 1998 to 30th September 2013. The nature of transactions pertain to reimbursement of administration expenses which the 1st Applicant Company did not obtain the prior approval of the Central Government (Regional Director) before entering into arrangement, wherein the 2nd Applicant herein is also the Managing Director.

It is further averred that, during the time of carrying out related party transactions with Flowserve Microfinish Valves Private Limited, the Company's paid up share capital was more than Rs 1,00,00,000/-. The Company ought to have obtained the Central Government approval but it has not obtained for the agreement.

Thus there was violation of provisions of section 297 of the Companies Act, 1956. This suo-motto application is filed by the Petitioners 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 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 service ; 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.

Violation of section 297 of the Companies Act, 1956 which is punishable under section 629A 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 Rupees Five Thousand and where the contravention is a continuing one, with a further fine which may extend to Rupees Five hundred for every day after the first during which the contravention continues”.

For the said violation, this Tribunal by order dated 29th January 2018 imposed compounding fee on the Applicants as detailed hereunder:-

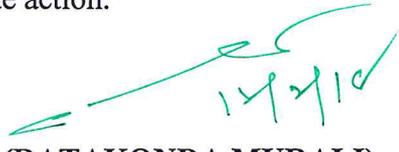
Sl. No.	Particulars	Violation of Sec.297(3) of the Companies Act, 1956	No. of days delay	Total Rs.
1	1 st Applicant Company	Rs. 1,000/-	5662 x 50 =2,83,100/-	2,84,100/-
2	2 nd Applicant- Managing Director	Rs. 1,000/-	5662 x 50 =2,83,100/-	2,84,100/-

In pursuant to our Order dated 29th January 2018 mentioned herein above, the Applicants have paid the compounding fee by depositing 2 Demand Drafts drawn in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai" as detailed below:-

Sl. No.	Particulars of Applicant	Fee Amount Rs.	DD No. & Date	Name of the Bank
1	1 st Applicant Company	2,84,100/-	034453 dt. 06/02/2018	Bank of India, Hubli
2	2 nd Applicant- Managing Director	2,84,100/-	503875 dt. 07/02/2018	Canara Bank, Station Road, Hubli

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