

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

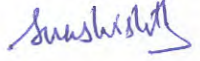

C. P. NO.
CA. NO. 16/125/16

PRESENT: SMT. INA MALHOTRA
Hon'ble Member (J)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 22.11.2016**

NAME OF THE COMPANY: M/s. Continental Automotive Brake Systems (I) Pvt. Ltd.

SECTION OF THE COMPANIES ACT: 621A

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
1)	SURINDER PASHISHTHA	PCS	Petitioner	
2)	PRASHANT KUMAR	CS	Company	

ORDER

The petitioner had filed an application under section 621A of the Companies Act, 1956 for compounding of the offence u/s 210 of the aforesaid Act. They had failed to lay the Financial Statements of the company before the AGM during the financial years 2011-12, 2012-13 & 2013-14.

2. This default was made good when the company has adopted financial statements on 27.03.2014, 25.09.2014 and 26.06.2015 respectively for the three years.

Contd/-.....

✓

3. As per the provisions of Section 210(1) of the Companies Act 1956 and Section 129(2) of the 2013 Act:-

210(1) "At every annual general meeting of a company held in pursuance of section 166, the Board of directors of the company shall lay before the company-

(a) a balance sheet as at the end of the period specified in sub-section (3), and

(b) a profit and loss account for that period."

129(2) "At every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year."

4. It is submitted that the aforesaid default attracts a fine which may extend up to Rs. 10,000/- for F.Y. 2011-12 & 2012-13 and to Rs.5 Lakhs for F.Y. 2014.

5. Accordingly, the office of the RoC has calculated and recommended the imposition of the maximum fine of Rs.5,20,000/- on the five directors.

6. The petitioner submits that the said omission was inadvertent and not on account of any malafide intentions. In fact the default arose on account of not holding the AGM on time and consequently in carrying out the subsequent steps required under the statute. Each default has given rise to separate penalty as in the present case. Given the facts of the case, there is no legal impediment in compounding the offence. It would however be sufficient to impose a fine of Rs.75,000/- on each of the petitioners. Accordingly, the fine is imposed as under:

Name of the Applicants	Penalty 2011-12	Penalty 2012-13	Penalty 2013-14	Total
Mr. Claude Alex D'Gama	Rs.10,000/-	Rs.10,000/-	Rs.55,000/-	Rs.75,000/-
Mr. Thomas Greth	Rs.10,000/-	Rs.10,000/-	Rs.55,000/-	Rs.75,000/-
Mr. Murali Srinivasan	Rs.10,000/-	Rs.10,000/-	Rs.55,000/-	Rs.75,000/-
Mr. Peter Laier	Rs.10,000/-	Rs.10,000/-	Rs.55,000/-	Rs.75,000/-
Mr. Vipul Kumar Parakh	Rs.10,000/-	Rs.10,000/-	Rs.55,000/-	Rs.75,000/-

7. Fine imposed on the aforesaid petitioners shall be remitted from their personal accounts.

8. Subject to the remittance of the aforesaid fine within two weeks, the offence shall stand compounded. Upon compliance, the Bench Officer shall communicate the same to the office of the RoC .

9. Petition stands disposed off in terms of the above and consigned to Record Room.

Sd—

(Ina Malhotra)
Member Judicial