NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

TP No. 168/621A/NCLT/AHM/2016 (New)
CA No. 428/621A/CLB/MB/2014 (Old)

Coram: **Present: Hon'ble Mr. BIKKI RAVEENDRA BABU**
MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 26.09.2016

Name of the Company: Deepak Impex Pvt. Ltd.

Section of the Companies Act: Section 210 of the Companies Act, 1956

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Deepkumar Vaghela	Company Secretary	Petitioner	Vaghela
2.				

ORDER

This application is filed by

1) Deepak Impex Pvt. Ltd.
2) Mr. Bhupesh Ramgopal Tiwari
3) Mr. Kailashnath Upadhyay

under Section 621 A of the Companies Act, 1956 for violation of Section 210 of the Companies Act, 1956.

First applicant is company. Second applicant and Third applicants are Directors of the first applicant company.

The applicant company has to hold Annual General Meeting for the Financial Year ending on 31.03.2013 on or before 30.09.2013. But the Annual General Meeting was held on 02.11.2013 with a delay of 33 days. This amount to violation of Section 210 of the Companies Act, 1956. This violation was admitted by the applicants in the application filed before the Registrar of Companies, Gujarat, Ahmedabad on 26.06.2014.

The Registrar of Companies in his report dated 31.07.2014 stated the period of default is for the Financial Year ending 31.03.2013 for non-placing of Companies Financial Statement before the share-holder within due date in terms of the provisions of Section 210 of the Companies Act, 1956.

The Registrar of Companies in his report further stated that as per the provisions of Section 210(5) if any person being a Director of the company, fails to take all reasonable steps to comply with the provisions of this Section he shall in respect of each offence, be punishable with imprisonment for a terms which may extent to 6 (six) months or fine which may extent to Rs. 10,000/- or with both.

The ROC calculated the maximum fine as

Rs. 10,000X3X1 = 30,000/-

The Registrar of Companies in his report also stated that no similar offence under Section 210 of the Act compounded during the last 3 years by the applicants.

The Learned Practicing Company Secretary appearing for the applicants stated that there is no wilful default on the part of the company and the applicants are voluntarily admitting the contravention. He requested the Tribunal to take a lenient view in awarding the amount to compound the contravention. He further submitted that since the period of violation is before the coming into force the Companies Act, 2013, this Tribunal has to follow section 621A and the violation comes under Section 210 of the Companies Act, 1956 but not under 129 of Act 18 of 2013.

A perusal of the application filed by the applicants and the report of the Registrar of Companies, Gujarat, Ahmedabad clearly indicates that the violation relates to the Financial Year ending 31.03.2013. Section 129 of Act, 18 of 2013 came into force on 01.04.2014. The Ministry of Corporate Affairs by way of Notification

dated 01.06.2016 SO 1936E declared that the matters transferred from Company Law Board to NCLT shall be disposed of in accordance with provisions of Act 18 of 2013 or Companies Act, 1956. Since, the violation relates to the period before the Act, 18 of 2013 came into force, Section 621A has to be followed in this case which enables the tribunal to compound the violation punishable with imprisonment or fine or both.

Perusal of the application shows no sufficient cause has been stated for not holding the Annual General Meeting within due date. Hence I find no reason to reduce the amount for compounding the contravention.

Hence contravention committed by the applicants one to three is compounded by this Tribunal on payment of Rs. 10,000/- each by way of Demand Draft drawn on Nationalized Bank in favour of PAO, MCA, Mumbai within 3 weeks from the date of this order and file the original Demand Draft before the Registry of this tribunal by 21.10.2016.

In case applicants fail to pay the amount as ordered above, the Registrar of Companies shall take appropriate action including prosecution of applicants as per applicable law under intimation to this Tribunal forthwith.

The application is disposed of accordingly.

Send a copy of this order to the applicants for compliance.

For reporting compliance of the order by the applicants, list the matter on 26.10.2016.

26.10.16

(BIKKI RAVEENDRA BABU)
MEMBER JUDICIAL

Dated this 26th day of September 2016