

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH  
T.P.NO. 167/2016  
C.A. 216/621A/CB/2015

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

IN THE MATTER OF COMPANIES ACT, 2013  
SECTION 621A UNDER SECTION 75 OF THE COMPANIES ACT, 1956  
AND

IN THE MATTER OF M/S DHARAMSHI HOLDINGS AND DEVELOPERS  
PRIVATE LIMITED

T.P NO. 167/2016

1. M/S Dharamshi Holdings And Developers Private Limited,  
No. 33, Komal Mansion,  
M.T.B. Road, Near Minerva Circle,  
Bangalore- 560002.
2. Mr. Rahul Khushalchand Dharamshi  
# 898, 10<sup>th</sup> Cross,  
22<sup>nd</sup> Main J.P. Nagar,  
II Phase, Bangalore-560078. -

APPLICANTS



PARTIES PRESENTED:

Mr. K. Dushyantha Kumar, Practicing  
Company Secretary, No. 71, Shop Street,  
9<sup>th</sup> Cross, 2<sup>nd</sup> Block, Jayanagar,  
Bangalore-560011 Authorised  
representatives for the Applicants.

Heard on: 29/07/2016, 10/08/2016, 24/08/2016 and 02/09/2016

ORDER

The Petition was originally filed before the Company Law Board, Southern Region, Chennai under Section 621A of the Companies Act, 1956 for purpose of compounding for violation of provisions of section 75 of the Companies Act, 1956. It was numbered as C.A No. 216/621A/CB/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 renumbered as T.P No. 167/2016..



The 1<sup>st</sup> Applicant is a Private Limited Company Registered under the name and style "Dharamshi Holdings And Developers Private Limited" on 13/06/1995 vide Registration No. U45309KA1995PTC018014. The Registered office of the company is situated at # 33, Komal Mansion, M.T.B. Road, Near Minerva Circle, Bangalore- 560002.


The Authorized share capital of the 1<sup>st</sup> Applicant Company is Rs 10,00,000/- (Rs. Ten lakhs only) consisting of 1,00,000 (one lakh) Equity Shares of Rs 10/- each and the paid up share capital is Rs 10,00,000/- (Rs. Ten lakhs only) consisting of 1,00,000 (One lakh) equity shares of Rs 10/- each.

As mentioned in the Memorandum of Association, the main objects of the 1<sup>st</sup> Applicant Company is to carry on the business as estate agents and estate managers, and to collect rents, repair, to purchase, acquire, take on lease or in exchange or in any other lawful manner any area, land, buildings, structures and to develop the same and dispose of or maintain the same and to build townships, colonies, farm houses, to provide consultancy services and technical knowhow in connection with building, designs, plans and specifications of models etc.,

The averments in the petition are that, the 1<sup>st</sup> Applicant Company is presently managed by Board of Directors as stated hereunder:-

- a) Sri Kirti Dhanji Shah
- b) Sri Rahul Khushalchand Dharamshi
- c) Sri Kushalchand Dhanji Shah

It is averred in the petition that, the 1<sup>st</sup> Applicant Company could not file the return of allotment of shares in time with the Registrar of Companies and it is further averred that the allotment of shares made on 27/10/2009 the return should have been filed before 26/11/2009, due to circumstances beyond the control of the company, the company could not file the return on allotment in time. However, the allotment of shares was filed on 06/05/2014 vide SRN S29904364.





Thus 2<sup>nd</sup> Applicant, the Director of Company admitted violation of provisions of section 75 (1) (a) of the Companies Act, 1956, for non filing of return of allotment of shares made on 27/10/2009 within the time prescribed under the Companies Act, 1956. It is also stated in the Petition that the company has filed the documents belatedly, with additional fees, there is a contravention under sec. 75 of the Companies Act, 1956 and the company has received a notice from the Registrar of Companies directing to file compounding application under sec. 621A of the Companies Act, 1956 before the then Company Law Board, Southern Region, Chennai for compounding the alleged contravention by its Director the 2<sup>nd</sup> Applicant Mr. Rahul Khushalchand Dharamshi. The default continued from 26/11/2009 to 06/05/2014 consisting of total 1620 days of delay in filing the return of allotment.

The 2<sup>nd</sup> Applicant has sought the following relief:

- a) To compound the offence in view of the fact that the alleged offence is no longer continuing;
- b) So far it relates to non filing of return of the allotments made on 27/10/2009 within the time prescribed by the Act 1956 as the same was filed on 06/05/2014 vide SRN S29904364.
- c) To pass such order, orders as deem fit in the circumstances of the matter.
- d) To take a lenient view and may levy compounding fees reasonable to the offence alleged to have been committed keeping in view of the circumstances of the matter.

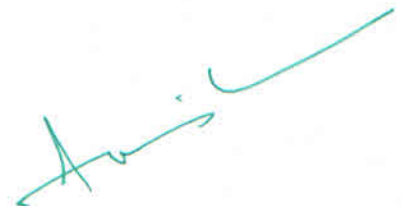
Section 75 (1) & 75 (4) of the Companies Act, 1956 reads as follows:-

“Whenever a company having a share capital makes any allotment of its shares, the company shall within thirty days thereafter, -

- (a) File with the Registrar a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and occupations of the allottees, and the amount, if any, paid or due and payable on each share”.

“If default is made in complying with this section, every officer of the company who is in default shall be punishable with fine which extend to five thousand rupees for every day during which the default continues”;

The Registrar of Companies, Karnataka, Bengaluru, vide its report dated 18/08/2015 has informed that the return of allotment filed on 06/05/2014 with a delay of 1620 days.

The Practicing Company Secretary has stated that the default was unintentional and hence lenient view may be taken in this case. This suo-moto application is filed by the Applicant.

We have gone through the documents filed, the affidavit of the Applicant and also the submissions of the Practicing Company Secretary and the observations of the Registrar of Companies, Karnataka, Bengaluru as stated above and we are of the opinion that the violation can be compounded by levying compounding fee on the Applicant No. 2 which is shown in the table.

Sl. No.	Particulars	Violation of Sec.75 of Companies Act, 1956 Delay of 1620 days (As per the report of ROC)	Grand Total Rs.
1	2 <sup>nd</sup> Applicant, Director of the Company	50 x 1620 days	81,000.00
	<b>Total</b>		<b>81,000.00</b>

(Rupees Eighty one thousand only)

In pursuant to our Order dated 23/09/2016 mentioned herein above, the Applicants have paid the compounding fee by depositing Demand Draft bearing No. 237577 dated 06/10/2016 for Rs. 81,000/- (Rupees Eighty one thousand only) of HDFC Bank, Bengaluru drawn in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai".

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, Bengaluru for appropriate action.

  
(RATAKONDA MURALI)  
MEMBER, JUDICIAL

  
(ASHOK KUMAR MISHRA)  
MEMBER, TECHNICAL

DATED THIS THE 16<sup>th</sup> DAY OF OCTOBER 2016