

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH  
T.P.NO. 251/2016

C.A. 143/621A/CB/2016

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

IN THE MATTER OF COMPANIES ACT, 2013  
SECTION 621A AND SECTION 56(4) READ WITH SECTION 56(6) OF  
THE COMPANIES ACT, 2013

AND

IN THE MATTER OF M/S DIABSOLUT TECHNOLOGY PRIVATE LIMITED

C.A. 143/621A/CB/2016

1. M/S DIABSOLUT TECHNOLOGY PRIVATE LIMITED,  
Regus Gem Business Centre,  
1<sup>st</sup> & 2<sup>nd</sup> Floor, IBIS Hotel Block,  
26/1, Hosur Road,  
Bommanahalli,  
Bangalore-560065.
2. Ms. Pauliene Selvanandan,  
# 1322, 2G CRS Behind Prem Nivas Convent,  
K.G.Halli, Ramaiah Layout,  
Bangalore-560084.
3. Mr. Chetan Chandrashekar,  
# U24, 1<sup>st</sup> Cross, Nagappa Street,  
Palace Guttahalli,  
Bangalore-560003.

- APPLICANTS

PARTIES PRESENTED:

Mr. C. Dwarakanath, Practicing Company Secretary  
and Authorised representative for the Applicants.

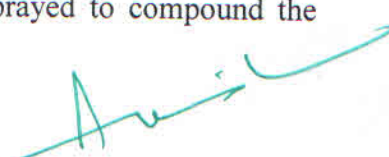
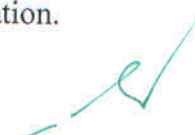
## ORDER

The Petition is filed on behalf of Petitioners under Sec.621A of Companies Act 1956 under Section 56(4) read with Sec. 56(6) of Companies Act 2013. Originally the Compounding petition was filed before Company Law Board, Southern Region, Chennai. The Petition was numbered as C.A. 143/CB/2016. 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. This petition is filed by the Petitioners with a prayer to record compounding of the offence. Contents of the Company Petition are briefly stated hereunder:

The 1<sup>st</sup> applicant is a company which was incorporated under the Companies Act, 2013 on 18/6/2014 under the name and style of "Diabsolut Technology Private Limited vide Corporate Identity No. U72400KA2014PTC074913. The Registered Office of the company is situated in Regus Gem Business Centre, 1<sup>st</sup> & 2<sup>nd</sup> Floor, IBIS Hotel Block, 26/1, Hosur Road, Bommanahalli, Bangalore-560065. The Authorised Share Capital of the applicant company as per the latest Audited Balance Sheet is Rs. 1,00,000/- (Rupees One Lakh only) consisting of 10,000 (Ten thousand) Equity Shares of Rs 10/- each. The main object of the company is to carry out the business in India and abroad of design, development, manufacture and research etc., to set up the business of maintenance of software systems and electronic data processing and outsourcing centers etc., and to carry on the business as consultants in the field of computer software and other allied fields etc., Details of the main object of the Company are stated in the Petition.

The averments in the application are briefly stated hereunder:

The 1<sup>st</sup> Applicant company was incorporated on 18/6/2014. The subscribers to the Memorandum of Association and Articles of Association of 1<sup>st</sup> Applicant Company were Applicants 2 and 3, who had each subscribed for 5,000 (Five Thousand) equity shares of Rs 10/- each. As per the provision of section 56(4)(a) of Companies Act, 2013, the 1<sup>st</sup> Applicant Company was required to deliver the share certificates to the Applicants 2 and 3 on or before 17/08/2014. The 1<sup>st</sup> Applicant Company could not deliver the share certificates for the reason that the 1<sup>st</sup> Applicant Company could not open its bank account within the due date. Further Bank Account in the name of 1<sup>st</sup> Applicant company was opened in "Hongkong and Shanghai Banking Corporation Limited, M.G.Road, Bangalore (HSBC) vide Current Account No. 073-132680-001 on 27/10/2014. It is further averred that, 1<sup>st</sup> Applicant Company delivered the share certificates No. 01 and 02 to the Applicants 2 and 3 respectively on 10/11/2014, in pursuant to the decision taken by the Board of Directors on 4/11/2014. Thus there was delay of 84 days in delivering the share certificates. It is further stated that there was no deliberate intention for not issuing the share certificates in time and contravention did not cause any detriment to the public at large. So it is prayed to compound the violation.







We have heard the Practicing Company Secretary of the 1<sup>st</sup> Applicant Company who contended that there was delay in issuing share certificates to Applicants 2 and 3, as Company could not open its Bank accounts within the time. As soon as Bank Account was opened the amount was remitted and share certificates were issued to the Applicants 2 and 3, who were also subscribers to the Memorandum of Association and Articles of Association. The Practicing Company Secretary has further stated that the violation is unintentional and is not deliberate and no loss has caused to the public at large. He prayed to take lenient view while compounding the violation.

We have seen the documents along with petition viz., Memorandum of Association and Articles of Association of the 1<sup>st</sup> Applicant Company, Bank Account opened with "Hongkong and Shanghai Banking Corporation Limited, M.G.Road, Bangalore (HSBC), it shows the credit of share subscriptions amount of Applicants 2 and 3, we have also seen share certificates issued to Applicants 2 and 3 and Board Resolution dated 4/11/2014 and it is clear that there is violation of section 56(4) of Companies Act, 2013 which reads as follows:

" Every company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates of all securities allotted, transferred or transmitted:

- (a) within a period of two months from the date of incorporation, in the case of subscribers to the memorandum;
- (b) within a period of two months from the date of allotment, in the case of any allotment of any of its shares;
- (c) within a period of one month from the date of receipt by the company of the instrument of transfer under sub-section (1) or, as the case may be, of the intimation of transmission under sub-section 92), in the case of a transfer or transmission of securities;
- (d) within a period of six months from the date of allotment in the case of any allotment of debenture."

We have received report from the Registrar of Companies, Bengaluru who stated that violation can be compounded by levying compounding fee on the Applicants. Considering the submissions made by the Practicing Company Secretary for petitioners and after going through the contents of the application and documents filed, we direct the Applicant Nos.1 to 3 to pay the compounding fee as detailed hereunder:



Sl. No.	Particulars	Violation of Sec.56 (4) ) of Companies Act, 2013
1	1 <sup>st</sup> Applicant Company	Rs. 1,00,000.00
2	2 <sup>nd</sup> Applicant	Rs. 20,000.00
3	3 <sup>rd</sup> Applicant	Rs. 20,000.00
	<b>Total</b>	<b>Rs. 1,40,000.00</b>

In pursuant to our Order mentioned herein above, the Applicants have paid the compounding fee by depositing 3 Demand Drafts of State Bank of India, Basavanagudi Branch, Bengaluru drawn on 01/09/2016 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	M/s Diabsolut Technology Private Limited	1,00,000/-	300834 dt. 01/09/2016
2	Ms. Pauliene Selvanandan	20,000/-	300832 dt.01/09/2016
3	Mr. Chetan chandrashekar	20,000/-	300833 dt: 01/09/2016
	<b>Total - Rs.</b>	<b>1,40,000/-</b>	

(Rupees One Lakh Forty Thousand only)

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 6<sup>th</sup> DAY OF SEPTEMBER 2016