NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

TP No. 163/621A/NCLT/AHM/2016 (New)
CA No. 261/621A/CLB/MB/2013 (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 3.10.2016

Name of the Company: Gujarat Apollo Industries Ltd.

Section of the Companies Act: Section 217(2AA) of the Companies Act, 1956

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	ASHISH SHAH	Practicing Company Secretary	Anil Patel Chairman of Gujarat Apollo Ind. Ltd	
2.				

ORDER
Pronounced in open Court

Mr. Ashish Shah, Learned Company Secretary present for the applicant.

This application is filed by Shri Anilkumar Tribhvandas Patel Chairman of M/s. Gujarat Apollo Industries limited under section 621 A of the Companies Act, 1956 for violation of section 217(2AA) r/w. AS-17 & AS-29 of the Companies Act, 1956.

The inspecting officer found that company did not disclose sales tax demand of Rs.10.35 lacs for the year 1997-98 as contingent liability and did not disclose segment wise results.

But the Board of Directors in their Directors report dated 20th August 2007 and 23rd August 2008 covering the Audited Accounts for the years 2006-2007 and 2007-2008 respectively, have categorically confirmed that Directors Reports are made in pursuance of sec 217(2AA) and there by violated sec.217(2AA) r/w AS-17 & 29 for the financial years as at 31.03.2007 and 31.03.2008.

The applicant company in its application stated that since Additional Commissioner (CT) Legal in his order passed in 2002 held that company has no liability to pay Rs.10.35 lacs to sales Tax Department of Andhra Pradesh and in the appeal filed by A.P. State government the Hon'ble Sales Tax Appellate Tribunal did not require the company to make payment during the pendency of Appeal, the same was not shown as contingent liability. However, the company admitted the violation of the provisions of AS-17.

The Company further stated in its application that assuming that offence under sec.217(2AA) r/w. AS-17 and AS-29 of the has been committed requested to compound the offence on payment of compounding fee.

The Registrar of Companies, Gujarat, Ahmedabad in his report stated that Mr. Anilkumar Tribhovandas Patel, Chairman of the company singed the Directors Report of the company for the financial years 2006-07 and 2007-2008 as Chairman of the company. It is further stated in the report of Registrar of Companies, Gujarat, Ahmedabad, the company is not a vanishing Company and no similar offence under sec.217(AA) of the Act compounded during the last three years by the applicant. Registrar of Companies, Gujarat, Ahmedabad in his report calculated the fine as Rs.20,000/- (Rs. Twenty thousand) for each count of offence for the applicant. Total fine Rs.20000 x 2 count of years x 1 applicant = Rs.40,000/- (Rs. Forty thousand).

The Ministry of Corporate Affairs by way of notification dated 01.06.2016 SO 1936E declared that the matters transferred from CLB to NCLT shall be disposed of in accordance with provisions of Act 18 of 2013 or Companies Act, 1956. Therefore, the violation relates to the period before the Act, 18 of 2013 came into force. Moreover, section 621A has to be followed in this case which enables the tribunal to compound the violation punishable with imprisonment or fine or both

It is a fact there is a disputed liability of the Company to A.P. State Government regarding Sales Tax and there is an order by the competent authority in favour of Company and an Appeal was filed by A.P. State government. Therefore, it appears that company was under the wrong view that in view of the order of competent authority on disputed liability, the company need not show the same as contingent Liability

Considering the above stated facts and as violation is of the years 2007 and 2008, this Tribunal is of the considered view that compounding amount need not be maximum fine amount provided.

Hence, violation of sec.217(2AA) r/w. AS-17 & AS-29 committed by the applicant is compounded on payment of an amount of Rs.15,000/- (Rs. Fifteen thousand only) for each count of offence by the sole applicant. The applicant shall pay total amount of Rs.15,000/- x 2 count of years =Rs.30,000/- (Total amount Rs. Thirty thousand) by way of Demand Draft drawn on Nationalized Bank in favour of Pay and Accounts Office, Ministry of Corporate Affairs, Mumbai within three weeks and file the original Demand Draft before the registry of this tribunal by 24.10.2016

In case applicants fail to pay the amount as ordered above, the Registrar of Companies, Gujarat, Ahmedabad 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 copy of this order to the applicant for compliance and ROC.

For reporting compliance of the order by the applicants, list the matter on 27.10.2016.

03.10.16

(BIKKI RAVEENDRA BABU)
MEMBER JUDICIAL

Dated this 3rd day of October 2016