NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

TP No. 171/621A/NCLT/AHM/2016 (New)
CA No. 74/621A/CLB/MB/2015 (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 5.10.2016

Name of the Company: Safal Buildcon Pvt. Ltd.

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

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	MAHESH C GUPTA	PCS	1) Rupesh Brahmbhatt	Mahesh Gupta
2.			2) Rajesh Brahmbhatt	Mahesh Gupta

ORDER

Mr. Mahesh C. Gupta, Learned PCS for Mr. Rupeshkumar B. Brahmbhatt & Mr. Rahesgjynar B. Brahmbhatt present.

This application is filed by Shri Rupeshkumar B. Brahmbhatt & Rajeshkumar B. Brahmbhatt who are the Directions of M/s. Safal Buildcon Pvt. Ltd under section 621 A of the Companies Act, 1956 for violation of section 210 of the Companies Act, 1956.

The annual general meeting of the company for the Financial Year ended on 31.3.2013 was held on 12.09.2014, in which the Annual Accounts of the Company for the year ended on 31.03.2013 were approved by the shareholders. Hence there is contravention of Section 210 of the Companies Act 1956. According to the report of the Registrar of Companies, Gujarat, Ahmedabad, the violation committed by the applicants/two directors is under section 210 of the Companies Act, 1956. Further according to the report of the Registrar of Companies, Gujarat, Ahmedabad the period of default is 31.03.2013. This application is filed by the applicants on 25.02.2015 before Registrar of Companies, Gujarat, Ahmedabad under section 621-

A of the Companies Act, 1956. Here it is pertinent to mention that section 129 of the Companies Act, 2013 came into force on 01.04.2014 whereas section 441 of the Companies Act 2013 came into force w.e.f. 01.06.2016. Since this application was filed on 25.02.2015 and it is registered as Company Application No. 74 of 2015 before then Company Law Board, Mumbai Bench, it means by the date of filing of this application and by the date of registering this application, section 441 of the Companies Act, 2013 did not come into force. Moreover, had this application been disposed of before 01.06.2016, by the then Company Law Board it would have been disposed of under section 621-A of the Companies Act, 1956. The notable difference between 621-A of the Companies Act, 1956 and 441 of the Companies Act, 2013 is that the Tribunal can compound any offence committed by the company or its officers, if it is punishable with fine only after 01.06.2016 whereas, under section 621-A, the offences punishable with imprisonment or fine or both can also be compounded.

The violation in this case according to the applicants and according to Registrar of Companies, Gujarat, Ahmedabad is under section 210 of the Companies Act, 1956 and the period of default is 31.03.2013. The section 129 of the Companies Act, 2013 which correspond to 210 of the Companies Act, 1956, came into force on 01.04.2014. Therefore, the violation in this case relates to the period prior to coming into force of section 129 of the Companies Act, 2013. Hence the violation can be treated as violation of section 210 of the Companies Act, 1956. Therefore, the said violation is compoundable under section 621A of the Companies Act, 1956.

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 National Company Law Tribunal shall be disposed of in accordance with provisions of Act 18 of 2013 or Companies Act, 1956. Therefore, as 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.

The Registrar of Companies, Gujarat, Ahmedabad in his report stated that applicants being Directions failed to take all reasonable steps to comply with the provision of section 210 of the Companies Act, 1956. The Registrar of Companies, Gujarat, Ahmedabad in its report stated maximum fine leviable is Rs.10,000/-X 1

count X 2 = 20,000/- (Rs. Twenty thousand only). 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 section 210 of the Companies Act, 1956 was compounded during the last three years by the applicants.

The reasons stated in the application is there are disputes between the applicants and other Directions of the company and the applicants are not in day to day management of the affairs of the company.

Considering the facts that violation committed in the year 2013, the application seeking compounding was filed in the year 2015, this Tribunal is of the considered view that compounding amount need not be reduced.

Hence, violation of section 210 of the Companies Act, 1956 committed by the applicants is compounded on payment of an amount of Rs.10,000/- each (Rs. One Thousand each). The applicants shall pay total amount of Rs.20,000/- (Total amount Rs. Twenty thousand only) by way of Demand Draft drawn on Nationalized Bank in favour of Pay & Accounts Office, Ministry of Corporate Affairs, Mumbai within three weeks and file the original Demand Draft before the registry of this Tribunal by 26.10.20016

In case applicants failed 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 applicants for compliance and Registrar of Companies, Gujarat, Ahmedabad.

For reporting compliance of the order by the applicants, list the matter on 28.10.2016.

5/10/16

(BIKKI RAVEENDRA BABU)
MEMBER JUDICIAL

Dated this 5th day of October 2016