

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**  
**NEW DELHI**

**C. P. NO. 16/20/2017**  
**CA. NO.**

**PRESENT: SMT. INA MALHOTRA**  
**Hon'ble Member (J)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 10.02.2017**

**NAME OF THE COMPANY: M/s. Kanodia Technoplast Limited**

**SECTION OF THE COMPANIES ACT: 621A**

<b><u>S.NO.</u></b>	<b><u>NAME</u></b>	<b><u>DESIGNATION</u></b>	<b><u>REPRESENTATION</u></b>	<b><u>SIGNATURE</u></b>
---------------------	--------------------	---------------------------	------------------------------	-------------------------

**Present:** Mr. Sanjay Grover, Company Secretary

**ORDER**

The petitioner has filed the present application u/s 621A of the Companies Act 1956 for the offence u/s 295(1) of the Companies Act, 1956. The said petition has been routed through the office of the RoC along with their comments. The petitioner no.1 Company namely M/s. Kanodia Technoplast Ltd entered into loan agreements with Petitioner no.4 Company, namely M/s. DLK Designs Pvt. Ltd.

Contd/-.....

✓

2. Mr. Chetan Kanodia, Managing Director of Petitioner No.1 Company, was appointed as a Director in the Petitioner no.4 company w.e.f 07.01.2011. Under an agreement dated 24.11.2010, a loan of Rs.75,00,000/- was granted by Petitioner No.1 Company to Petitioner no.4. Corporate guarantees of Rs. 30,00,00,000/- and Rs.4,97,00,000/- were given on 15<sup>th</sup> March 2011 and 29<sup>th</sup> March 2011 respectively by Petitioner no.1 Company in respect of credit facility provided by Axis Bank to Petitioner no.4 Company. Further on 30<sup>th</sup> November 2012, a subsequent loan agreement was executed between Petitioner No.1 Company and Petitioner No.4 Company with revised rate of interest of 12%. For this purpose, no prior permission in terms of Section 295(1) of the Companies Act 1956 was taken.

3. As per requirement of Section 295(1) of the Companies Act, 1956:

***“(1) Save as otherwise provided in sub- section (2), no company (hereinafter in this section referred to as” the lending company”) <sup>1</sup> without obtaining the previous approval of the Central Government in that behalf shall directly or indirectly,] make any loan to, or give any guarantee or provide any security in connection with a loan made by any other person to, or to any other person by,-***

***(a) any director of the lending company or of a company which is its holding company or any partner or relative of any such director;***

***(b) any firm in which any such director or relative is a partner;***



***(c) any private company of which any such director is a director or member;***  
***(d) any body corporate at a general meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors together; or***  
***(e) any body corporate, the Board of directors, managing director, managing agent, secretaries and treasurers, or manager whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.”***

4. It is submitted by the petitioners that the said violation had occurred without any malafide intentions and pray for compounding the offence. Petitioner no.4 became a wholly owned subsidiary of petitioner no.1 on 9<sup>th</sup> June 2014. Hence, the period of default is stated to be for two years from 07.01.2011 to 09.06.2014. The aforesaid offence is punishable u/s 295(4) of the Companies Act, 1956 whereby every person who is knowingly a party to any contravention of sub-section (1) or (3), including, in particular, any person to whom the loan is made or who has taken the loan in respect of which the guarantee is given or the security is provided, shall be punishable either with fine or with simple imprisonment for a term which may extend to six months. The RoC has therefore recommended the imposition of the maximum fine of Rs.1,00,000/- on the Companies and each of its two defaulting officers.

5. However, given the facts of the case where the default stands rectified, there is no legal impediment in compounding of this offence, the petitioners/applicants' prayer can be granted. This Bench deems it

sufficient to impose a fine of Rs.20,000/- each on the Companies and its defaulting Directors for the entire period of default.

6. Subject to the remittance of the aforesaid fine within 15 days, the offence shall stand compounded. Copy of the order be sent to the office of the RoC. Compliance Report be placed on record.

7. Petition stands disposed off in terms of the above and be consigned to Record Room.

sd/-

(Ina Malhotra)  
Member Judicial