

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C. P. NO.
CA. NO. 16/91/2016

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 18.05.2017**

NAME OF THE COMPANY: M/s. Metro Buildtech Pvt.Ltd.

SECTION OF THE COMPANIES ACT: 621A

<u>S.NO.</u>	<u>NAME</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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Present: Mr. Kamal Kant Jha, Senior Panel Counsel for RoC
Mr. Manish Raj, Company Prosecutor, RoC Delhi
Ms. Rekha Mittal, Company Secretary

ORDER

This petition has been filed u/s 621A of the Companies Act, 1956 praying for compounding of the offence u/s 211(1) and 211(2) r/w Part II of Schedule VI of the Companies of the Companies Act r/w AS-13 issued by ICAI. It is submitted that during a technical scrutiny carried by the office of the RoC



for the financial year ending 31.03.2011, 31.03.2012 & 31.03.2013, it was observed that the company has earned income from investment during the said period but as failed to disclose separately as income from long term investment or short term investment as per requirement of Section 211(2) r/w Part II of Schedule VI of the Companies Act, 1956 and therefore contravened the provisions of Section 211 (2) r/w Part II of Schedule VI.

2. The petitioner's offence relates to the financial year ending 31.03.2011 to 31.03.2013. The fine and penalty envisaged under the Act has been provided in Section 211(7) of the applicable Act.

3. As per the report of the RoC, the default has not been made good. The maximum fine which is recommended by the office of the RoC is Rs. 10,000/- for each year's default on each of the applicants, which aggregates to Rs. 30,000/- on each for default of 3 years.

4. In Court however, the Ld. PCS appearing on behalf of petitioner submits that there is no violation of the aforesaid provision inasmuch as the said requirements were inapplicable in their case. There was no income on investment other than the Fixed Deposits with Bank and from the Income Tax Department on their refund. This was duly disclosed in the notes. A reply was also sent by them in response to the show cause notice.

5. Given this argument that in fact there is no default, notice was issued to the office of the RoC to explain why the petitioners were allegedly under the threat of prosecution when they maintain that no wrong had been done.

Pursuant to the notice, Ld. Company Prosecutor appeared and maintained their stand that violations had been detected for which prosecution shall lie.

In the circumstances, Ld. PCS was granted liberty to withdraw and contest the prosecution as and when initiated, but at this stage she submits that she withdraws her objections and prays for compounding of the offence.

6. Having accepted their default, this application is allowed, and the petitioner/applicants' prayer is being considered. Accordingly, this Bench deems it sufficient to impose an aggregate fine of Rs. 5000/- on each of the defaulting parties as a single default has a cascading effect of attracting several violations, each required to be compounded. Accordingly, fine is imposed as under:-

For	Amount
Mr. Rajinder Kumar Goyal	5000/-
Mr. Aakash Deep Goyal	5000/-
Mrs. Salochna Goyal	5000/-

7. Fine imposed on the Directors/officers shall be paid out of their personal accounts.

8. Subject to the remittance of the aforesaid fine within 30 days, the offence shall stand compounded. Copy of the order be sent to the office of the RoC. Compliance Report be placed on record.



9. Petition stands disposed off in terms of the above.

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(Ina Malhotra)
Member Judicial