

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C. P. NO.
CA. NO. 16/95/2016

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 22.05.2017**

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> |
|---------------------|--------------------|---------------------------|------------------------------|-------------------------|
|---------------------|--------------------|---------------------------|------------------------------|-------------------------|

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(3A), (3B) & (3C) of the Companies Act r/w AS-2 issued by ICAI. During the inspection carried out by the Directorate, it was observed from the balance sheet for the years 31.03.2011, 31.03.2012 and 31.03.2013 that in their inventories, the company has not provided information/disclosure as per Accounting Standard AS-2



issued by ICAI stating the accounting policy adopted as required u/s 211(3A) r/s 211(3B)/(3C) of the Act.

2. As per the provision of Section 211(3A) (3B) & 3(C) of the Companies Act, 2013:

“(3A) Every profit and loss account and balance-sheet of the company shall comply with the accounting standards.

(3B) Where the profit and loss account and the balance-sheet of the company do not comply with the accounting standards, such companies shall disclose in its profit and loss account and balance-sheet, the following, namely:—

(a) the deviation from the accounting standards;

(b) the reasons for such deviation; and

(c) the financial effect, if any, arising due to such deviation.

(3C) For the purposes of this section, the expression “accounting standards” means the standards of accounting recommended by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949 (38 of 1949), as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards established under sub-section (1) of section 210A:

Provided that the standards of accounting specified by the Institute of Chartered Accountants of India shall be deemed to be the accounting standards until the accounting standards are prescribed by the Central Government under this sub-section.”

3. The petitioner’s offence relates to 3 years i.e the financial years ending from 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, which is punishable

with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both.

4. 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.

5. 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. It is submitted that the provision of Accounting Standard 2 read with Section 211(3A), 211(3B) and 211(3C) of the Companies Act, 1956 were not attracted since the petitioner had expressly disclosed the accounting policies used for valuation of inventories in the Notes to Accounts annexed with the financial statements for the financial years ending 31st March 2011, 31st March, 2012 and 31st, March 2013.

6. 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.



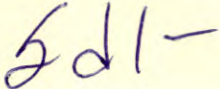
7. Having accepted their default, this application is allowed, and the petitioner/applicants' prayer is being considered. Accordingly, this Bench deems it sufficient to impose an aggregate fine of Rs. 5000/- on each of the defaulting parties as a single default has a cascading effect of attracting several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

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

9. 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.

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


(Ina Malhotra)
Member Judicial