

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
T.P.NO. 173/2016

C.A. 222/621A/CB/2015

*PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI. ASHOK KUMAR MISHRA, MEMBER TECHNICAL*

IN THE MATTER OF COMPANIES ACT, 1956
UNDER SECTION 621A AND SECTION 266C READ WITH SECTION
266G OF THE COMPANIES ACT, 1956.

AND
IN THE MATTER OF
MINENT SERVICED APARTMENTS PRIVATE LIMITED

C.A. 222/621A/CB/2015 IN T.P.NO. 173/2016

Mr. Mahesh Nedungadi - Director
No. 486, 10th Cross, 27th Main,
HSR Layout, Sector 1,
Bangalore-560034.

- APPLICANT

PARTIES PRESENTED:

Mr. Sudhir V.Hulyalkar, 16/8, Ground Floor, 2nd
Cross, Gupta Layout, South End Road,
Basavangudi, Banagalore-560004
Practicing Company Secretary
and Authorised representative for the Applicants.

Heard on: 17/10/2016, 25/10/2016, 07/11/2016 and 11/11/2016

ORDER

The Petition is filed on behalf of Petitioners under Sec.621A of the Companies Act 1956 and under Section 266C read with Section 266G of the Companies Act 1956. Originally the Compounding petition was filed before the Registrar of Companies, Karnataka at Bangalore on 10th June 2015. Consequent upon the establishment of National Company Law Tribunal Bench at Bengaluru, the said case was transferred to this Tribunal on abolition of Company Law Board, Southern Region, Chennai Bench and numbered as T.P.No. 173/2016. This petition is filed by the Petitioner with a prayer to record compounding of the offence. Contents of the Company Petition are briefly stated hereunder:

It is averred in the Company petition that, Mr. Mahesh Nedungadi is said to be in possession of multiple Director Identification Number (DIN) and the details of the same are as follows:-

- a) DIN: 00364079 approved on 04/07/2006
- b) DIN: 01200323 approved on 24/01/2007

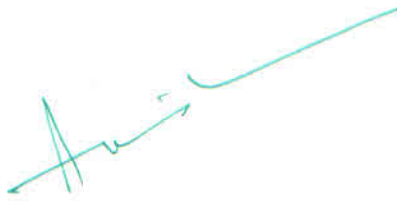
It is stated that, the Applicant petitioner was unaware of the existence of a Duplicate DIN/Multiple Din. He came to know about the existence of Multiple DIN when a Show Cause Notice was issued to him by the Regional Director (Northern Region) vide No. SCN/Multiple DIN/RDNR/2015/491 dated 13/04/2015.

It is further stated that, he was Director of the Company M/s Minent Serviced Apartments Private Limited and that he immediately filed e-form RD-1 along with Form DIR-5 and other prescribed attachments and up loaded the same vide SRN No. C54939913 dated 04/06/2015 to the Registrar of Companies, Karnataka at Bengaluru for surrender and cancellation of the duplicate DIN: 00364079.

It is further stated that Applicant/ Director did not use the DIN No. 00364079 for appointment as Director in any Company. It is stated the violation occurred due to ignorance and that after knowing he took step to surrender and for cancellation of DIN No. 00364079. As regard to his DIN No. 01200323, it is stated that the applicant never used DIN No. 00364079. Therefore, this application for compounding the violation of Section 266C of the Companies Act, 1956 which is punishable under section 266G.

Section 266 (C) which reads as follows:

“Prohibition to obtain more than one Director Identification Number – No individual, who had already been allotted a Director Identification Number under section 266B, shall apply, obtain or possess another Director Identification Number.”



Section 266G which reads as follows:-

“If any individual or director, referred to in section 266A or section 266C or section 266D or a company referred to in section 266E, contravenes any of the provisions of those sections, every such individual or director or the company, as the case may be, who or which, is in default, shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which the contravention continues”.

We have received report from the Registrar of Companies, Karnataka at Bengaluru vide No. ROCB/AHN/CO 65575/2015 dated 15th July 2015. It is stated in the report that, Applicant Mr. Mahesh Nedungadi committed the violation of provisions of section 266C of the Act by obtaining more than one Director Identification Number (DIN).

It is also stated that, default was made ² good and DIN No. 01200323 is alone in existence and other DINs either lapsed or rejected. He also stated that, there was delay of 3255 days in rectifying the default.

The Practicing Company Secretary has filed the affidavit of the Applicant in which he has stated that, since he came to learn about the existence of duplicate DIN, he filed Form DIR-5 on 4th June 2015 and the Duplicate DIN No. 00364079 was cancelled. It is evident from the portals of the website of Ministry of Corporate Affairs. The Applicant has filed Board Resolution for cancellation of the Duplicate DIN No. 00364079 of the Applicant. The Applicant petitioner has filed copy of the Show Cause Notice.

We have heard the Practicing Company Secretary on 17/10/2016, 25/10/2016, 07/11/2016 and 11/11/2016, who urged that Applicant had applied for cancelling of Duplicate DIN and it was cancelled and the Applicant at present is having only one DIN. The Practicing Company Secretary further contended that due to ignorance only, this had occurred and there was no willful default.



Considering the submissions of the Practicing Company Secretary and after going through the contents of the Petition, report of the Registrar of Companies, Karnataka at Bengaluru, the violation can be compounded by levying compounding fee on the Applicant as stated hereunder:-

Sl. No.	Particulars	Violation of Sec.266C of the Companies Act, 1956	Delay of 3255 days	Total Rs.	Grand Total Rs.
1	2 nd Applicant Director	Rs. 2000/-	3255 x 10/-	32,550/-	34,550/-

The compounding fee levied shall be paid by the Petitioner within 15 days from the date of this order and call this matter on 25th November 2016 for compliance.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 11TH DAY OF NOVEMBER, 2016