

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COMPANY APPLICATION NO. 62/441/NCLT/MB/2016
PRESENT: B.S.V. PRAKASH KUMAR, MEMBER (JUDICIAL) AND
V. NALLASENAPATHY MEMBER (TECHNICAL)

In the matter of Section 621A of the Companies Act, 1956 read with Section 441 of the Companies Act, 2013.

In the matter of **M/s. CMS INFO SYSTEMS LIMITED**, having its Registered Office at CMS HOUSE, PLOT NO. 91, STREET NO. 7 MIDC, MAROL Mumbai – 400 093

PRESENT FOR THE APPLICANT: -

Manish L. Ghia- Practising Company Secretary for the Applicants.

Date of Hearing: 15.12.2016

ORDER

Applicants in Default: -

- 1) M/s.CMS INFO SYSTEMS LIMITED (Company),
- 2) Mr. Rajiv Kaul (Whole-time Director),
- 3) Mr. Pankaj Khandelwal (CFO) and
- 4) Mr. Praveen Soni (CS)

Section Violated; -

Section 96 (1) of the Companies Act, 2013.

Nature of Violation; -

1. As per the submission made in the Report of Registrar of Companies, Mumbai and from the submissions made in the Compounding Application it is observed that, the AGM including the Adjourned AGM of the Company for the Financial Year ended on 31 march, 2015 should have been held on or before 30th December,2015 pursuant to the extension granted by the Registrar of Companies on 9th Oct, 2015. The adjourned AGM was subsequently held on 23rd February, 2016. The period of default was from 31/12/2015 to 22/02/2016. As per Sec 99 of the Companies Act, 2013 the company and every officer of the Company who is in default shall be punishable with fine which may extend to one lakh rupees and in case continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues. Hence the company has violated Sec 96 (1) of the Companies Act, 2013.

Since the applicants have violated the provision under Section 96 (1) of the Companies Act, 2013, the Registrar of Companies, Mumbai forwarded the compounding application vide his letter No. ROC/STA/621A/180479/269

dated 05.12.2016 and the same has been treated as Company Application No. 62/441/NCLT/MB/2016.

2.. We have gone through the application of the applicants and the report submitted by the Registrar of Companies, Mumbai and also the submissions made by Authorised Representative for applicants at the time of hearing and noted that application made by the applicants for compounding of offence committed under Section 96(1) of the Companies Act, 2013, merited consideration.

3. Having regard to the facts and circumstances of the case, the offence committed ^{under} Section 96(1) of the Companies Act, 2013, as stated and explained above in first para is compounded against the Company and its Director, CFO and Company Secretary, on payment of Rs. 1,00,000/- by M/s. CMS INFO SYSTEMS LIMITED (Company), Rs. 50,000/- by Mr. Rajiv Kaul (Whole Time Director), Rs. 50,000/- Mr. Pankaj Khandelwal (Chief Financial Officer) and Rs. 50,000/- by Mr. Praveen Soni (Company Secretary). The remittance shall be made by way of Demand Draft drawn in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, Mumbai". Since the Company and its Director, CFO and Company Secretary named above have remitted total amount of Rs. 2,50,000/- as mentioned below:

Demand No	Draft	Demand Date	Draft	Amount	Drawn On
013192		19/12/2016		1,00,000/-	IDBI Bank
010003		20/12/2016		50,000/-	ICICI Bank
010004		20/12/2016		50,000/-	ICICI Bank
010005		20/12/2016		50,000/-	ICICI Bank

to the registry towards compounding fees, the Registrar of Companies, Mumbai is hereby directed to take further action as provided under Section 621A(3)(c) of the Companies Act, 1956 read with Section 441 (3) (c) of the Companies Act, 2013.

Ordered Accordingly,

Sd/-

B. S.V. PRAKASH KUMAR
Member (Judicial)

Sd/-

V.NALLASENAPATHY
Member (Technical)

Dated this October 20, 2017