

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
TRANSFER COMPANY APPLICATION NO. 253/621A1CLBIMB/2015
PRESENT: B. S.V. PRAKASH KUMAR, MEMBER(JUDICIAL)

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

In the matter of **M/s. Bhatgaon Mines Pvt. Ltd.**, having its Registered Office at A-302, Khushi Residency, Opposite Hotel, Chhidambara, Telibandha, VIP Road, Raipur, Chhattisgarh_492001.

PRESENT FOR THE APPLICANT:-

Mukesh Siroya - Practising Company Secretary

Date of Hearing: 18.05.2016

ORDER

Applicant in Default:-

M/s. Bhatgaon Mines Pvt. Ltd., Shri. Satyanarayan Nandlal Nuwal – Director and Shri Ajay Shaktikumar Sancheti – Director.

Section Violated :-

Section 166 of the Companies Act, 1956.

Nature of Violation :-

1. As per the submission made in the Report of ROC, Chhattisgarh and as per the submissions made in the Compounding Application, it is observed that the Company held its annual general meeting for Financial Year ended on 31.03.2013 on February 13, 2015 and for Financial Year ended on 31.03.2014 on February 14, 2015 and the following table depicts the due dates and delay:

Financial year ended on	Due Date of AGM	Actual Date of AGM	Period of Delay
31.03.2013	30.09.2013	13.02.2015	1 Year 4 Months 14 Days
31.03.2014	30.09.2014	14.02.2015	2 Months 13 Days

The brief history and events leading to the default are given herein below:

- (i) The applicant Company, Bhatgaon Mines Private Limited, is a Joint Venture Company ("JVC") pursuant to the terms of the Joint Venture Agreement ("JVA") between the Chhattisgarh Mineral Development Corporation Limited ("CMDC"), SMS Infrastructure Limited ("SMS") and Solar Explosives Limited ("Solar").
- (ii) The JVC was incorporated, pursuant to the JVA, for the purpose of development, mining and marketing of coal from the Shankarpur (Bhatgaon II) coal block in the district - Surguja of Chhattisgarh State.
- (iii) As per the terms of the JVA, at every meeting of the Board of Directors at least one (1) director representing CMDC and at least one of the directors representing SMS and Solar must be present to fulfill the quorum at a Meeting.
- (iv) However, during the year 2012-13 Bhatgaon [II] & Extension Coal Block had been de-allocated by the Government of India, Ministry of Coal and CMDC had also sent us an order for the termination of JV Agreement vide its letter dated July 19, 2013. Accordingly the working of the Company has since been stopped and no board meeting could be held during this period.
- (v) The Company sent requests to CMDC nominee directors seeking their prior confirmation for holding board meetings but no confirmation could be obtained for holding meetings hence no board meeting could be held during this period.

- (vi) After due legal consultation the Company decided to convene board meeting regardless of the fact whether the CMDC directors attend or not. The Board Meeting was convened on January 22, 2015 with due notice thereof having been sent to all the directors including CMDC nominee directors. However, none of the nominees of CMDC attended the meeting and therefore the meeting was adjourned to February 5, 2015 with due notice thereof sent to all the directors. At the said meeting the Company, inter-alia, approved the audited financials for the year ended on March 31, 2013 and March 31, 2014 and convened the annual general meetings on February 13, 2015 and February 14, 2015. At the respective annual general meetings, the members approved and adopted the audited financials and accordingly the Company filed the same with MCA.

The Registrar of Companies, Chhattisgarh forwarded the compounding application vide his letter No. No. ROC-C.G./621A/JTA/2015/952 dated 17.07.2015 and the same has been treated as Company Application No. 253/621 A/CLB/MB/2015.

2. The undersigned, the then Presiding Officer, of erstwhile Company Law Board had gone through the application and the report submitted by the Registrar of Companies, Chhattisgarh and also the submissions made by the Authorised Representative at the time of hearing and noted that application for compounding of offence committed under Section 166 of the Companies Act, 1956, merited consideration.

3. Accordingly, the offence committed under section 166 of the Companies Act, 1956 as stated and explained above has been ordered on 18.05.2016 to be compounded against the Company and its two Directors on payment of Rs. 10,000/- by each.

4. Subsequently, vide Notification No. A-45011/14/2016-Ad. IV dated 01.06.2016, issued by the Ministry of Corporate Affairs, New Delhi, the Central Government has constituted the National Company Law Tribunal and dissolved the erstwhile Company Law Board w.e.f. 01.06.2016.

5. The applicants above named have remitted the total compounding fees of Rs.30,000/- with the newly constituted office of the National Company Law Tribunal, Mumbai Bench i.e. after dissolution of the Company Law Board.

6. Having regard to the facts and circumstances of the case, the offence committed under section 166 of the Companies Act, 1956 by the Company and its two Directors named above, is hereby compounded.

7. Therefore, Registrar of Companies, Chhattisgarh is hereby directed to take further action as provided under section 621A(3)(c)(d) of the Companies Act, 1956.

Ordered Accordingly

Sd/-

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

Dated this *may*, ____, 201*7*