

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COMPANY APPLICATION NO. 290/621A/CLB/MB/2015

PRESENT: B.S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

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

And

In the matter of M/s Multi Commodity Exchange India Ltd., having its Registered Office at Exchange Square, Chakala, Suren Road, Andheri (E), Mumbai-400093

PRESENT FOR THE APPLICANT: -

R Murlimohan – Practicing Company Secretary

Date of Hearing: 19.05.2016

ORDER

Applicants in Default: -

- 1) Mr. Jignesh Shah – Director
- 2) Mr. Joseph Massey – Director
- 3) Mr. Shreekant Javalgekar – Director
- 4) Mr. Padmanabhan Ramanathan – Ex-Company Secretary

Section 211 r.w AS-5 of the Companies Act, 1956.

1. Nature of Violation: -

- 1) As per the submission made in the report of the RoC, Mumbai and as per the submissions made in the Compounding Application, it was noticed that the company had debited the amount payable to the tune of ₹ 2.8 lacs for other services and ₹1.70 lacs towards “out of pocket expenses” in the year 2012-13 payable to the auditors M/s BSR& Co. pertaining to the year 2011-12. The company has thus violated of section 211 r/w Schedule VI of the Companies Act, 1956 as far as not making sufficient provisions towards audit fees in the year 2011-12 and also not showing separately under the head “prior period expenses” in the year 2012-13 as required under section 211 (3A) r.w. AS- 5 of the Act and thus liable for penal action.

If any such person is referred to in sub section (6) of section 209 fails to take all reasonable steps to secure compliance by the company, as respects any accounts laid before the company in general meeting with the provisions of this section and with the other requirements of this Act as to the matters to be stated in the accounts he shall in respects of each offence be punishable with imprisonment for term which may be sentenced six months or fine which may be extended to ten thousand rupees or with both.

2. The undersigned, then the Presiding Officer of the erstwhile Company Law Board had gone through the application and the report submitted by the Registrar of Companies, Mumbai and also the submissions made by the authorised representative of the Company at the time of hearing and noted that application

for compounding of offence committed under S. 211 r.w AS-5 of the Companies Act, 1956, merited consideration.

3. Accordingly, the offence committed under the said section and explained above has been ordered on 19.05.2016 to be compounded against the Company on payment of ₹ 35,000/-.
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 applicant above named have remitted the total compounding fees of 35,000/- by four Demand Drafts drawn on i) HDFC Bank Ltd. bearing no. 683270 dated 04.06.2016, ii) ICICI Bank bearing no. 009253 dated 07.06.2016, iii) Axis Bank bearing Nos. 042405 dated 01.06.2016, iv) Axis Bank bearing Nos. 0424373 dated 01.06.2016, 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 211 r.w AS-5 of the Companies Act, 1956 by the Company is hereby compounded.
7. Therefore, Registrar of Companies, Mumbai is hereby directed to take further action as provided under S. 621 A (3) (c) (d) of the Companies Act, 1956.

Ordered Accordingly,

Dated this June, 16 2017

Sd/-
B. S. V. PRAKASH KUMAR
Member (Judicial)