

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COMPANY APPLICATION NO. 83/441/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. Triton Hotels and Resorts Pvt Ltd., having its Registered Office at 103, Shantivan , 2A, Raheja Township, Malad (E), Mumbai-400097

PRESENT FOR THE APPLICANT: -

Pramod S. Shah, Practising Company Secretary for the Applicants.

Date of Hearing: 06.03.2017

ORDER

Applicants in Default: -

M/s. Triton Hotels and Resorts Pvt Ltd., (Company), Shri Ratankant Shiv Sharma (Director), Shri Pothi Singh Kamlesh (Director), Shri James Masih (Director).

Section Violated; -

Section 297 of the Companies Act, 1956.

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, under the provisions of Section 166 of the Companies Act, 1956 the applicant company had entered into transactions for availing Car Rental Services from the related party i.e, M/s. Sunlight Car Rental Services Pvt Ltd from F.Y 2010-11 to F.Y 2013-14 for a period of 3.5 Years, a company in which Mr. Ratankant Shiv Sharma was a director appointed with effect from 20th Sep 2010 and paid M/s Sunlight Car Rental Services Pvt Ltd Rs.2,40,42,668.00 for availing the said Services, which attract the provisions of Sec 297 of the Act. Since the paid up capital of the company was in excess of the limit laid down in sec 297 of the Act, it required previous approval of the Central Govt for entering into the transactions as aforesaid. However, the applicant company failed to obtain the previous approval of the Central Government before entering into the aforesaid transactions resulting in the contravention of Sec 297 of the Companies Act,1956.

Since the applicants have violated the provision under Section 297 of the Companies Act, 1956, the Registrar of Companies, Mumbai forwarded the

compounding application vide his letter No. ROC/JTA/621A/168731/6341 dated 18.03.2016 and the same has been treated as Company Application No. 83/621A/NCLT/MB/MAH/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 applicant at the time of hearing and noted that application made by the applicants for compounding of offence committed under Section 297 of the Companies Act, 1956, merited consideration.

3. Having regard to the facts and circumstances of the case, the offence committed under Section 297 of the Companies Act, 1956, as stated and explained above in first para is compounded against the Company and its three directors on payment of Rs. 30,000/- by M/s. Triton Hotels and Resorts Pvt Ltd (Company), Rs. 30,000/- by Mr. Shri Ratankant Shiv Sharma (Director), Rs 30,000/- Shri Pothi Singh Kamlesh (Director) and Rs 30,000/- Shri James Masih (Director). 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 three directors named above have remitted total amount of Rs. 1,20,000/- through Demand Draft Nos. 039376, 021437, 333874 and 406255 all dated 18.03.2017 and drawn on HSBC, Yes Bank, Punjab & Sind Bank & Citi Bank respectively 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)(d) of the Companies Act, 1956 read with Section 441 (3) (c) (d) of the Companies Act, 2013.

Ordered Accordingly,

Dated this July 11, 2017

Sd/-

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

Sd/-

V.NALLASENAPATHY
Member (Technical)