

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
COMPANY APPLICATION NO. 292/621A/CLB/MB/2015

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

In the matter of Section 621-A of the Companies Act, 1956

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 Muralimohan – 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 Javalkar – Director
- 4) Mr. Padmanabhan Ramanathan – Ex-Company Secretary

**Section Violated; -**

Section 211 r.w. Sch VI of the Companies Act, 1956.

**1. Nature of Violation: -**

As per the submission made in the report of the RoC, Mumbai and as per the submissions made in the Compounding Application, it is observed that, the auditor's report for the year 2012-2013 had commented that the Company's stand for treating members margin and income thereon not as part of Settlement Guarantee Fund are not in conformity with the FMC's guidelines on the issue. The Company has treated to the tune of ₹ 432.35 Crores as on 31<sup>st</sup> March, 2013 as "other current liability" instead of crediting it to SGF. The treatment given by the Company is not proper as the amount should have been credited it to SGF and should have been and shown under "Reserve and Surplus" with a separate sub-head. The Company has therefore not properly classified the margin money and income thereon and hence violated provisions of S. 211 r.w. Sch. VI of the Companies Act, 1956. Further the balance sheet does not show true and fair view of the state of affairs of the Company for last three years resulting in violation of S. 211 of the said Act. The Registrar of Companies, Mumbai has forwarded the compounding application vide his letter No. ROC/STA/621A/74 dated 04<sup>th</sup> September 2015 which was reached to CLB, Mumbai Bench on 8<sup>th</sup> September 2015 and the same has been treated as Company Application No. 292/621A/CLB/MB/2015.

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. Sch. VI 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 each defaulter on payment of ₹ 10,000/-.
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 applicants above named, have remitted the total compounding fees of ₹ 40,000/- by 4 (Four) Demand Drafts of ₹ 10,000/- each. The one has drawn on HDFC Bank bearing no. 683272 dated 04.06.2016. The second has drawn on ICICI Bank bearing no. 009255 dated 07.06.2016, and the other two were drawn on Axis Bank bearing nos. 042401 and 042381 dated 02.06.2016 and 01.06.2016 respectively, 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 S. 211 r.w. Sch. VI 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 May, 6 2017

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