

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COMPANY APPLICATION NO. 183/621A/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) M/s. Multi Commodity Exchange Ltd.

Section Violated; -

Section 211 r.w Sch VI 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 is observed that, the Company had not shown the amount spent for "repairs and maintenance of machineries" separately for the last 3 years. It has simply clubbed this under the head "repairs and maintenance- others". It is noticed that the amount incurred for repairs of machineries and equipment had been shown under the head "repairs and maintenance-others" to the tune of Rs. 6 crores in the year 2012-2013. Further, in the year 2010-11 and 2011-12, the company had been simply stated that "repairs and maintenance" only and without giving any bifurcation as required under Schedule VI in repairs to building, repairs to machines and repair to others. The company has therefore violated the provisions of Section 211 r.w Sch VI of the Companies Act, 1956 for the last three years that are (31/03/2017, 31/03/2012, and 31/03/2013.)

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 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 Company on payment of ₹ 30,000/-.
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 ₹ 30,000/- . by 3 (three) Demand Drafts of 10,000/- each drawn on i) HDFC Bank Ltd. bearing no. 683271 dated 04.06.2016, ii) ICICI Bank bearing no. 009248 dated 07.06.2016, and iii) Axis Bank bearing Nos. 042404 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 Section 211 r.w Sch VI of the Companies Act, 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.

Sd/-

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

Ordered Accordingly,

Dated this May, 6 2017