

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

T.P.NO. 250/2016

IN

C.A. NO. 139/621A/CB/2016

*PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI. ASHOK KUMAR MISHRA, MEMBER TECHNICAL*

IN THE MATTER OF COMPANIES ACT, 1956 SECTION 96 OF THE
COMPANIES ACT 2013

READ WITH SECTION 168 & 621A OF THE COMPANIES ACT, 1956
AND

IN THE MATTER OF M/S NASDAQ OMX CORPORATE SOLUTIONS (INDIA)
PRIVATE LIMITED

C.A. NO. 139/621A/CB/2016

1. M/S Nasdaq OMX Corporate Solutions (India) Private Limited
1st Floor, UB Plaza,
No.1-2, Vittal Mallaya Road,
Bangalore-560001.
2. Ms. Joan Cusack Conley,
9677 Carriage Road,
Kensington,
Maryland, 20895,
United States of America.
3. Mr. Stephen Ryan Matthews
18713 Ashbourne Place,
Olney, Maryland, 208323,
United States of America
4. Mr. Ajith Kumar Chandrasekharan,
A41071 Sobha Petunia Apt,
49/1, 49/2, 49/6, Nagawara Village,
Bangalore-560045.
5. Mr. Hamilton Gunaseelan Jeenitssohy,
Old No. 3/16C, New No.363,
Thettikuzhi, Vanniyoor Post,
Kanyakumari District, 629151,
Tamil Nadu.

- APPLICANTS

PARTIES PRESENTED:

Ms. Veena V.Rajes, Advocate of J.Sagar
Associates, 2nd Floor, Frontline Grandeur, 14
Walton Road, Bangalore-560001 Authorised
representatives for the Petitioners.

Heard on: 28/07/2016, 16/08/2016, 26/08/2016, 08/09/2016 and 23/09/2016

ORDER


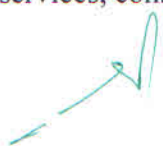
The Petition was originally filed before the Company Law Board, Southern Region, Chennai under Section 621A of the Companies Act, 1956 for the purpose of compounding for violation of provisions of section 168 of the Companies Act, 1956. Consequent upon the establishment of National Company Law Tribunal Bench at Bengaluru, the said case was transferred to this Tribunal on abolition of Company Law Board, Southern Region, Chennai Bench and numbered as T.P No. 250/2016.

The averments in the petitions are briefed hereunder:-

The Petitioner Company was incorporated under the Companies Act, 1956 on 23/05/2013 as a Private Limited Company in the name and style of "NASDAQ OMX Corporate Solutions (India) Private Limited" vide Registration No. U74900KA2013FTC069273. The Registered office of the company is situated at # 1st Floor, UB Plaza, No.1-2, Vittal Mallya road, Bangalore-560001.

The present Authorized share capital of the Petitioner company is Rs. 30,00,00,000/- (Rupees Thirty Crores only) consisting of 3,00,000 (Three lakh) Equity Shares of Rs 1,000/- each . The paid up capital is Rs. 2,45,66,000/- (Rupees Two Crores Forty Five Lakhs and Sixty Six Thousand only) divided in to 24,566 (Twenty Four Thousand Five Hundred and Sixty Six) equity shares of Rs 1,000/- each.


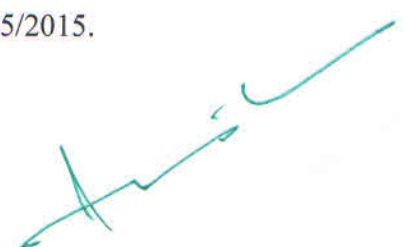
The Main objects of the Petitioner Company is to engage in the business of development, marketing and sale of corporate solutions products and services to bodies corporate both in India and abroad; to provide intelligence, governance, communications and visibility support to bodies corporate; to render specialized, professional and technical services, consulting services etc.,



The Petitioners has sought the following reliefs:-

- a) That the violation of section 96 of the Companies Act, 2013 be compounded against the Applicants with a minimum fee as the Applicants have acted bonafide and the contravention is because of a bonafide reason and no prejudice would be caused to any person if the contravention of Section 96 of the Companies Act, 2013 is condoned/compounded;
- b) That such further order(s) be made and directions given, affording necessary reliefs to the Applicants as may be deemed fit and proper in the circumstances contemplated herein above.

It is averred in the Company Petition that:-

- i) As per the provisions of Section 96 of the Companies Act, 2013, the Company was required to hold its first annual general meeting within a period of 9 months from the date of closing of the first financial year i.e., on or before December 31, 2014.
 - ii) The company accordingly held the first annual general meeting on 22/11/2014, wherein all matters, other than the approval of the financial statements and appointment of auditors, were discussed and decided. However, the annual general meeting was adjourned to 08/04/2015, since the financial statements were not finalized at that time.
 - iii) The Company thereafter held the adjourned annual general meeting on 08/04/2015 to consider and approve the audited accounts. Accordingly at the adjourned meeting the shareholders of the Company approved the financial statements placed before them. The aforementioned financial statements were subsequently filed with the Registrar of Companies on 18/05/2015.
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The Registrar of Companies, Karnataka, Bengaluru vide his letter bearing No.ROCB/AHN/621A/69273/2016 dated 23/02/2016 has also submitted that the Company conducted Adjourned Annual General Meeting on 08/04/2015 and the financial statements were subsequently filed with the Registrar of Companies, Karnataka, Bengaluru on 18/05/2015 and the period of default is from 31/12/2014 to 08/04/2015, thus there is a delay of 97 days.

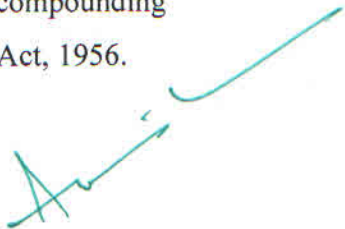

The Registrar of Companies, Karnataka, Bengaluru has further mentioned that "As per the applicable provisions of section 168 of the Companies Act, 1956 which reads as follows:

"Company and every officer of the company who is in default shall be punishable with the fine which may be extend to Rs 50,000/- and in case of continuing default with the further fine which may extend to 2500 per day after the first during which default continues".

The Registrar of Companies, Karnataka, Bengaluru has made an observations that the compounding application may be decided on merits.

The matter has been heard on 28/07/2016, 16/08/2016, 26/08/2016, 08/09/2016 and 23/09/2016. The Counsel for petitioners has submitted a certified copy of the latest audited annual report, certified copy of the notice and explanatory statement calling the annual general meeting and Board Resolution dated 03/06/2015 to make petition for compounding of offence.

We have perused the documents filed by the Petitioners. We have seen the Board Resolution dated 03/06/2015, wherein the Board has passed a resolution to file necessary Compounding Application. We have seen Notice and Minutes of Annual General Meeting for the financial year 2013-14 and after going through the Company Petition under section 621A of the Companies Act, 1956 and further submissions made by the Counsel for Petitioners and the observations of the Registrar of Companies, we direct the Petitioners No. 1 to 5 to pay the compounding fee as detailed hereunder as per provisions of the Companies Act, 1956.



Sl. No.	Particulars	Violation of Sec.168 of Companies Act, 1956	Delay of 97 days	Grand Total Rs.
1	1 st Petitioner Company	10,000/-	97 x 100/- = 9,700/-	19,700/-
2	2 nd Petitioner	10,000/-	97 x 100/- = 9,700/-	19,700/-
3	3 rd Petitioner	10,000/-	97 x 100/- = 9,700/-	19,700/-
4	4 th Petitioner	10,000/-	97 x 100/- = 9,700/-	19,700/-
5	5 th Petitioner	10,000/-	97 x 100/- = 9,700/-	19,700/-

In pursuant to our Order dated 30/09/2016 mentioned herein above, the Applicants have paid the compounding fee by depositing Demand Draft for Rs. 98,500/- (Rupees Ninety eight thousand five hundred only) of HSBC Bank, Bangalore drawn on 07/10/2016 in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai" as detailed hereunder:-

Sl. No.	D.D No.	Date	Amount Rs.
1	788838	07/10/2016	19,700/-
2	788839	07/10/2016	19,700/-
3	788840	07/10/2016	19,700/-
4	788841	07/10/2016	19,700/-
5	788842	07/10/2016	19,700/-
	Total		98,500

As the compounding fee has been remitted by the Applicants, the offence stated in the petition is compounded. A copy of this Order be sent to Registrar of Companies, Karnataka, Bengaluru for appropriate action.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 17th DAY OF OCTOBER, 2016