

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

T.P.NO. 149/2016

IN

C.A. NO. 161/621A/CB/2015

PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL

**IN THE MATTER OF COMPANIES ACT, 1956
UNDER SECTION 75 READ WITH SECTION 621A
OF THE COMPANIES ACT, 1956
AND**

IN THE MATTER OF M/S SYNGENE INTERNATIONAL LIMITED

C.A. NO. 161/621A/CB/2015 & T.P.NO. 149/2016

1. Mrs. Kiran Mazumdar Shaw,
Glenmore, Survey No.58,
Goolimangala Village,
Sarjapur Hobli,
Anekal Taluk,
Bangalore-560100.

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APPLICANT

PARTIES PRESENTED:

Mr. Pradeep B.Kulkarni, M/s V.Sreedharan & Associates, # 32/33, First Floor, G.N.R Complex, 8th Cross, Wilson Garden, Bangalore-560027, Practicing Company Secretary and Authorised Representative for the Applicant.

Heard on: 30/08/2016, 07/09/2016, 23/09/2016 and 19/10/2016.

ORDER

The Petition was originally filed before the Company Law Board, Southern Region, Chennai under Section 621A of the Companies Act, 1956 by the Managing Director for the purpose of compounding for violation of provisions of section 75 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. 149/2016.


The averments made in the company application are briefed hereunder:-

The Company was incorporated under the Companies Act, 1956 on 18th November 1993 as a Private Limited Company in the name and style of "SYNGENE INTERNATIONAL LIMITED" vide Registration No. 14937. The Company became a Public Limited Company on 19th April 2007. The Registered office of the company is situated at # Biocon SEZ, Biocon Park, Plot No. 2 & 3, Industrial Area, IV Phase, Jigani Link Road, Bommasandra, Bangalore-560099.

The Authorized share capital of the Company is Rs.250,00,00,000/- (Rs. Two hundred and Fifty Crores) consisting of 25,00,00,000 (Twenty Five Crore) Equity Shares of Rs. 10/- each. The Issued, Subscribed and Paid-up capital of the Company as on 31/03/2015 was Rs 200,00,00,000/- (Rupees Two Hundred Crores) divided into 20,00,00,000 (Twenty Crores) Equity Shares of Rs 10/- each fully paid up.

The Main objects of the Company is to carry on, undertake, set up, establish, pursue, develop, deal, trade, use, assist, advice, consult, facilitate, Contract Research and Manufacturing Services (CRAMS) and Clinical research services in the field of drug discovery, biotechnology, pharmaceuticals, nutritional products, bio-pharmaceutical, bio-informatics, medicinal sciences, life sciences and clinical data management; to carry on research and development of new products, new delivery systems, new routes of administrations; to engage in the business of design and development of software and related products for special applications in the field of Biotechnology etc., Details of the objects of the company are mentioned in the Memorandum of Association of the Petitioner Company.

According to the averments in the Petition, the Company conducted Extra Ordinary General Meeting on 14th December 2011 to conduct business and one of the items of the Agenda is to issue Bonus Shares of the Company. It is further stated that, the Company had filed Form 2 for allotment of bonus shares vide SRN S08438145 dated 24th April 2012. Inadvertently the Company attached a defective list of Allottees. Therefore, the company requested the Registrar of Companies through letter dated 3rd June 2015, to mark the said Form 2 (Return of Allotment) which has been filed vide SRN. S08438145 to be defective, so as to enable the Company to file a revised Form 2 (Return of Allotment) with corrected list of Allottees. The Registrar of Companies, Karnataka at Bengaluru accordingly marked the Form 2 as defective.



The Company filed a fresh Return of Allotment in Form PAS-3 for the Bonus Share Issue with correct list of allottees on 13th June 2015 vide SRN S38194767. Thus there was delay of 1168 days in filing Return of Allotment leading to violation of provisions of Clause (a) of sub-section (1) Section 75 of the Companies Act, 1956. Hence the Applicant who is the Managing Director of the Company prayed for compounding the violation.

The matter has been heard on 30/08/2016, 07/09/2016, 23/09/2016 and 19/10/2016. The Practicing Company Secretary has made submissions that the Company is defaulted in not filing the Return of Allotment due to the reasons beyond control of the Company. However, the Company filed the Return of Allotment in Form PAS-3 with corrected list of allottees on 13th June, 2015 vide SRN. S38194767. Thus there was delay of 1168 in Filing Return of Allotment. Thereby there was violation of provisions of Clause (a) of Sub-section (1) Section 75 of the Companies Act, 1956. Hence, prayed for Compounding the violation with minimum compounding fees.

Section 75 (1) (a) reads as follows:

“Whenever a company having a share capital makes any allotment of its shares, the company shall, within thirty days thereafter:


- (a) File with the Registrar a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and occupations of the allottees, and the amount, if any, paid or due and payable on each share”.

The penal provisions for the above offence contained in sub-section (4) of the Section 75 of the Companies Act, 1956 which reads as follows:-

“If default is made in complying with this section, every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees for every day during which the default continues.

Provided that in case of contravention of the proviso to clause(a) of sub-section 1, every such officer, and every promoter of the company who is guilty of the contravention shall be punishable with fine which may extend to fifty thousand rupees.”

The Practicing Company Secretary has stated that the offence committed was purely inadvertent and the default was not willful or deliberate or with any mala fide intentions and hence lenient view may be taken in this case. This suo-moto application is filed by the Managing Director of the Company.



We have perused the documents filed by the Petitioner. We have seen the certified extract copy of the Board Resolution dated 31st March 2015 wherein the Board has passed a resolution to file necessary Compounding Application. We have seen the Memorandum and Articles of Association of the company, copy of Balance Sheet for the year ended 31/03/2012 and copy of the Return of Allotment filed in Form PAS-3, Challan, Board Resolution for allotment and List of Allottees and after going through the Company Petition under section 621A of the Companies Act, 1956 and further submissions made by the Practicing Company Secretary for the Applicant and the observations of the Registrar of Companies, we hereby levy the compounding fee on the Applicant as set out in the table given hereunder:-

Sl. No.	Particulars	Violation of Sec.75 of Companies Act, 1956 No. of days delay	Total Rs.
1	Applicant Managing Director	1168 x 200/-	2,33,600/-

In pursuant to our Order dated 28/10/2016 mentioned herein above, the Applicant have paid the compounding fee by depositing Demand Draft bearing No. 816873 dated 04/11/2016 for Rs. 2,33,600/- (Rupees Two Lakh Thirty Three thousand Six hundred only) of The Hongkong and Shanghai Banking Corporation, Bangalore drawn in favour of "Pay and Accounts Officer, Ministry of Corporate Affairs, payable at Chennai".

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.

15/11/16
(RATAKONDA MURALI)
MEMBER, JUDICIAL

DATED THIS THE 15 DAY OF NOVEMBER 2016