

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
T.P.NO. 245/16

C.A. 34/621A/CB/2016

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

IN THE MATTER OF COMPANIES ACT, 2013
SECTION 621A READ WITH SECTION 166 AND 168 OF THE COMPANIES
ACT, 1956 AND SECTION 441 OF THE COMPANIES ACT, 2013.

AND

IN THE MATTER OF M/S TECNOTREE CONVERGENCE PRIVATE LIMITED

CA NO. 34/621A/CB/2016

1. M/S Tecnotree Convergence Private Limited
65/2, Level 07, 6th Floor,
Bagmane Tech Park,
Bagmane Tridib, CV Raman Nagar,
Byrasandra, Bangalore-560093.
2. Ms. Padma Ravichander.
293, 9th Cross, II Block,
R.T.Nagar, Bangalore-560032.
3. Mr. Indiresb Vivekananda,
284, H.S.R Layout, 5th Sector,
5th Cross, 12th Main Road,
Venketapur, Bangalore-560102.
4. Mr. Ilkka Raiskinen,
13 B 5, ESPOO, 02320, Finland.
5. Mr. Tuomas Wegelius,
IIVARINTIE, 9A A 1, ESPOO, 02360, Finland.
6. Mr. Kaj Hagros
Tontunmaentie, 42 E 0220 ESPOO, Finland.
7. Mr. Peetri Phiko
Valitalontie 43, AS 12 00660 Helsinki Finland.
8. Mr. Kiran Gowda
09, Krishna Niwas, 05th Cross,
Mannorayana Palya, Sulthanpalya Main Road,
R.T Nagar Post, Bangalore-560032.

- APPLICANTS

PARTIES PRESENTED:

Mr. T.Sathya Prasad, Practicing Company Secretary
and Authorised representative for the Applicants.

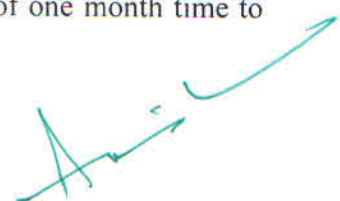

ORDER

This Petition is filed under Section 621A read with section 166 and 168 of the Companies Act, 1956 and under section 441 of the Companies Act, 2013 with a prayer for compounding of certain violation committed under provisions of the Companies Act, 1956.

The 1st Applicant is a company originally Registered under the name and style of "ESTEEM CAPITAL AND MANAGEMENT SERVICE LIMITED". Again the 1st Applicant Company had changed its name to "Lifetree Convergence Limited" Once again the 1st Applicant Company changed its name to "Tecnotree Convergence Private Limited" The Registered office of the company is situated at # 65/2, B-Block, 6th Floor, Level 07, Bagmane, Tridib Bagmane Tech Park, C.V.Raman Nagar, Bangalore-560093. The Authorized share capital of the 1st Applicant Company as per the latest Audited Balance Sheet on 31/03/2014 is Rs 35,93,00,000/- (Rupees Thirty Five Crores Ninety three lakhs only) consisting of 1,25,00,000 (one crore twenty five lakhs) Equity Shares of Rs 10/- each and 33,00,000 (Thirty three lakhs) 0.01% non-cumulative compulsorily convertible preference share of Rs 71/- each.

The main object of the 1st Applicant Company is to carry on business of developing and providing services in the field of electronic commerce, web based or related technology and applications, dealing in all kinds of internet/intranet/extranet business. To carry on the business of marketing and sales representatives in the electronic media and consultancy of Electronic Commerce and providing Telecommunication software in the field of Customer management etc.

The averments in the petition is that, the 1st Applicant Company has sought an extension of time from the Registrar of Companies, New Delhi for holding the Annual General Meeting beyond the due date for the financial year ended 31/03/2012 by filing e-form 61 dated 4/09/2012 vide SRN B56818537. The Registrar of Companies, New Delhi granted extension of one month time to



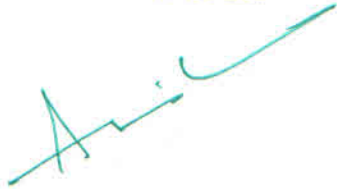

the 1st Applicant Company to hold the Annual General Meeting i.e., upto 30/10/2012. However, the 1st Applicant Company could not hold its Annual General Meeting within the extended time. On the other hand the 1st Applicant Company held its Annual General Meeting on 21/12/2012 for the financial year ended 31/03/2012. It is also averred in the petition that the Annual General Meeting for the financial year 31/03/2013 was actually held on 30/12/2013. Thus there was delay in holding the Annual General Meeting for the financial year ending 31/03/2013. The Annual General Meeting for the financial years 2011-12 and 2012-13 should have been held on 30/09/2012 and 30/09/2013 respectively. Thus the 1st Applicant Company did not hold Annual General Meeting for the two financial years within the time. The 1st Applicant Company could not hold Annual General Meeting even for the extended period for the financial year 2011-12. Thus there was violation of section 166 (1) of the Companies Act, 1956, which reads as follows:

“Every company shall in each year hold in addition to any other meetings a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:”

Thus 1st Applicant Company admitted violation of provisions of section 166(1) of the Companies Act, 1956, in not holding Annual General Meeting for the financial years 2011-12 and 2012-13 within the prescribed time.

We have heard the Practicing Company Secretary for the Petitioners and we have seen the documents filed by the Petitioners along with the petition. Petitioners filed Memorandum and Articles of Association of the 1st Applicant Company marked as Annexure A-1. Petitioners also filed statement of audit for the year ended 31/03/2013 which is marked as Annexure A-2. The Petitioners filed extract of Board Resolution dated 04/05/2015 marked as Annexure A-3.

The Company Secretary who is referred as 8th Applicant filed Affidavit stating that one Mr. Gautam Khungar resigned from the office of the Director and

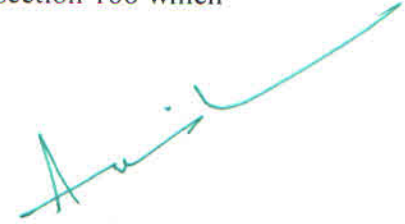



one Mr. Shishir Sharma vacated the office of the Director. The Company Secretary further filed Affidavit stating that Mr. Shishir Sharma ceased to be the Director w.e.f. 21/12/2012 and Mr. Varun Varm, Company Secretary was ceased to be Secretary w.e.f. 18/03/2013. He has also stated in the affidavit that Mr. Indiresk Vivekananda, Mr. Kaj Hagros and Mr. Peetri Phiko were not Directors on the Board for the financial years 2011-12 and 2012-13.

Report from the Registrar of Companies, Karnataka, Bengaluru received vide letter No. ROCB/PS/621A/076806/2013 dated 19/11/2015, stating that Mr. Indiresk Vivekananda, Mr. Peetri Phiko and Mr. Kaj Hagros were not Directors during the relevant period when violation took place. Even Company Secretary the 8th Applicant by way of his Affidavit confirmed the same. Therefore, 3rd, 6th and 7th Petitioners are not liable to pay compounding fee. The Registrar of Companies, Karnataka, Bengaluru in his report further stated that 4th Petitioner was Director for the financial year 2012-13. In other words he was not Director on Board for the financial year 2011-12. Similarly Mr. Kiran Gowda was responsible for the violation for the financial year 2012-13. In other words he was not Company Secretary for the financial year 2011-12. Therefore, 4th and 8th Applicants are liable to pay the compounding fee for the violation for the financial year 2012-13.

The Practicing Company Secretary contended that the delay in conducting Annual General Meeting for the two financial years was due to shifting of the Registered office of the company to a different location and the main computer server was facing technical problems, resulting in the operations of the company came to stand still. Thus there was delay in holding Annual General Meeting for the financial years 2011-12 and 2012-13.

We have gone through the documents filed, the affidavit of 8th Applicant who is Company Secretary and also the submissions of the Practicing Company Secretary. There was delay in holding the Annual General Meeting for the two financial years and thereby there was violation of provisions of section 166 which is punishable under section 168 of the Companies Act, 1956,



This suo-moto application is filed by the petitioners. The Petitioners Nos. 3,6 and 7 were not Directors during the relevant period. As per the report of Registrar of Companies, Karnataka, Bengaluru, Petitioner Nos. 4 and 8 are responsible for violation for the financial year 2012-13 only. So we are of the opinion that the violation can be compounded by levying compounding fee on the Applicant Nos. 1,2,4,5 and 8 which is shown in the table.

Sl. No.	Particulars	Violation of Sec.166 of Companies Act, 1956	Delay of 81 days & 90 days	Total Rs.	Grand Total Rs.
1	1 st Applicant Company	Rs. 20,000/-	81 x 500/- 90 x 500/-	40,500.00 45,000.00	1,05,500.00
2	2 nd Applicant	Rs. 20,000/-	81 x 500/- 90 x 500/-	40,500.00 45,000.00	1,05,500.00
3	4 th Applicant	Rs 10,000/-	90 x 500/-	45,000.00	55,000.00
4	5 th Applicant	Rs. 20,000/-	81 x 500/- 90 x 500/-	40,500.00 45,000.00	1,05,500.00
5	8 th Applicant	Rs 10,000/-	90 x 500/-	45,000.00	55,000.00
			Total		4,26,500.00

In pursuant to our Order dated 17/09/2016 mentioned herein above, the Applicants have paid the compounding fee by depositing Demand Draft bearing No. 001191 dated 22/09/2016 for Rs. 4,26,500/- (Rupees Four Lakh twenty six thousand five hundred only) of HDFC Bank, 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.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 7th DAY OF OCTOBER 2016