

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C. P. NO.
CA. NO. 16/113/14

PRESENT: SMT. INA MALHOTRA
Hon'ble Member (J)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 05.12.2016**

NAME OF THE COMPANY: M/s. Triveni Infrastructure Development Co. Ltd.

SECTION OF THE COMPANIES ACT: 621A

<u>S.NO.</u>	<u>NAME</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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Present: Mr. Devesh Kumar Vasisht, PCS for petitioner.

ORDER

The petitioners, as Directors of M/s. Triveni Infrastructure Development Company Ltd, have filed for compounding of the offence of Section 621A of the Companies Act, 1956. An inspection of the books of accounts and records of the company was carried out by the office of the Regional Director which revealed certain lacunae in compliance of statutory requirement of Section 211(3A) (3B) & (3C) because of improper adherence to the Accounting Standard. A show cause notice was issued for contravention of Section 217(2AA) of the Act r/w AS-3, 7, 13, 15, 18, 19 & 26 issued by the ICAI. The Director in his report under Director's responsibility statement had certified that the applicable Accounting Standard were adhered to in the preparation of annual accounts. However non compliances were pointed out attracting penal consequences under sub section 5 of Section 217 (2AA).

Contd/-.....

2. The applicants are erstwhile Directors of the Company which has since been taken over by the Official Liquidator appointed in Winding up proceedings. They therefore ceased to have any control over the company w.e.f 27.06.2011. Since the offence relates to a prior period i.e for financial years 2005-06 to 2010-11, the Directors have filed the present petition to avoid facing prosecution.

3. The RoC in its report has confirmed that the petitioners are not in position to make the default good as the Official Liquidator has taken over the assets of the company. They have recommended the imposition of the maximum fine upon the petitioners viz Ms.Madhu Mittal and Mr. Sumit Mittal for the offence of Section 217 (2AA) which tantamounts to Rs.1,20,000/- on each of the Directors for the six years of default.

4. Given the facts of the case that there is no legal impediment in compounding of this offence, the petitioner/applicants' prayer can be granted. Accordingly, this Bench deems it fit to impose a consolidated fine of Rs. 30,000/- on each of the petitioners for the default for six financial years w.e.f 2005-06 to 2010-11 in respect to violation of 217 (2AA).

For	Amount (Rs.)
Mr. Madhur Mittal	30,000/-
Mr. Sumit Mittal	30,000/-

5. Subject to the remittance of the aforesaid fine within 30 days, the offence shall stand compounded. Upon compliance, the Bench Officer shall communicate the same to the office of the RoC for taking appropriate steps for withdrawal of the prosecution against the petitioners.

6. Petition disposed off in terms of the above.

SD/-
(Ina Malhotra)
Member Judicial