

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C. P. NO.
CA. NO. 16/83/16

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

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

ORDER

The petitioners, as erstwhile Directors of M/s. Triveni Infrastructure Development Company Limited have filed for compounding of the offence of Section 211 (3A) (3B) & (3C) of the Companies Act, 1956 r/w Accounting Standard-10. The Regional Director, Northern Region initiated inspection of the Company u/s 209A of the Companies Act, 1956 and observed that the company had violated the provision of Section 211(3A) (3B) & (3C) of the Companies Act, 1956 r/w various defaults of the Accounting Standard. The Regional Director had pointed out that as per the investigation of the SFIO, the company (TIDCO) had capitalized lease hold land of Rs.61010470/- in their books of accounts. While as per the sale deed executed dated 28.02.2007, the company had paid a total consideration of Rs.6,62,40,000/- and a stamp duty of Rs. 5299250/- tantamounting to Rs.71539250/-. The company was therefore

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charged for short capitalizing the amount of the lease hold land in their books of accounts by an amount of Rs.1,05,28,780/-. Upon scrutiny of the Balance Sheet for the Financial year ending 31.03.2007, it was observed that the company had not disclosed full and true affairs of the transaction in this Balance Sheet as required u/s 211 of the Companies Act, 1956 nor adhered to the mandatory Accounting Standards.

2. As per the provision of Section 211 of the Companies Act, 1956:

“(3A) Every profit and loss account and balance sheet of the company shall comply with the accounting standards.”

(3B) Where the profit and loss account and the balance sheet of the company do not comply with the accounting standards, such companies shall disclose in its profit and loss account and balance sheet, the following namely:-

- (a) the deviation from the accounting standards;*
- (b) the reasons for such deviation; and*
- (c) the financial effect, if any, arising due to such deviation.*

(3C) For the purposes of this section, the expression “accounting standards” means the standards of accounting recommended by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949 (38 of 1949), as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards established under sub-section (1) of section 210A.”

3. The petitioner's offence relates to 2 years i.e for the financial years 2006-07 and 2007-08. The fine and penalty envisaged under the Act has been provided in Section

211(8) of the applicable Act, which is punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both.

4. The applicants are erstwhile Directors of the Company which has since been taken over by the Official Liquidator appointed in winding up proceedings by the Hon'ble Delhi High Court.

5. Since the offence relates to a prior period, the Directors have filed the present petition. As per averments, the Company had bifurcated the figures of land & Building situated at Noida (UP) in the year 2008-09. The land was not charged to depreciation as per Schedule XIV of the Companies Act 1956. This had been disclosed separately in the Fixed Assets Register. Noida Authority had also demanded the transfer costs; the information has been duly supplied to the office of the RoC.

6. The applicants further submit that failure to adhere to AS - 3, 13, 15, 18, 19 & 26 have already been compounded by the erstwhile CLB vide its order dated 14th July, 2015. The present application is for compounding in respect of default of AS-10. The SFIO has also previously given its NOC. It is submitted that the applicants are no longer in charge of the affairs of the Company and the default has been rectified.

7. The RoC in its report has confirmed that the default has been made good. They have recommended the imposition of the maximum fine upon the petitioners viz Ms. Madhu Mittal and Mr. Sumit Mittal for the offence of 3A, 3B, 3C of Section 211 & AS-10 which tantamounts to Rs.80,000/- on each of the Directors for the two years of default.

8. 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. 10,000/- on each of the petitioners for




the default for financial years ending 2006-07 and 2007-08 for non adherence to the requirements of AS-10.

For	Amount (Rs.)
Mr. Madhur Mittal	10,000/-
Mr. Sumit Mittal	10,000/-

9. 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.

10. Petition disposed off in terms of the above.


(Ina Malhotra)
Member Judicial