

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C. P. NO .16/24/15
CA. NO.

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 24.01.2017**

NAME OF THE COMPANY: M/s Vitcom Consulting Private Limited
Section 297(1) Of The Companies Act , 1956

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. Jasmeet Singh, Ms. Deepmala Indore, Ms. Arti Prasad and Mr.
Urmila Jeet Kaur, Advocates for SFIO
Ms. Manju Vohra, Company Secretary.

ORDER

The petitioners have filed this application u/s 621A of the Companies Act, 1956 praying for compounding of the offence u/s 297 (1) of the Companies Act. The said petition has been routed through the office of the RoC along with their comments. The company did not obtain approval of board of directors for carrying out transactions with Related Parties i.e, for rendering services vide Agreement dated 01.05.2009 with M/s. Neucom Consulting Pvt. Ltd. in which Sh. Vishal Bhushan and Ms. Karuna Menon were common Directors w.e.f 01.11.2008 to 31.03.2009 and again from 01.04.2014 to 20.05.2014.

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2. The aforesaid offence is punishable u/s 629A of the Companies Act, 1956 whereby the Company and every officer who is in default is punishable with a fine which may extend to Rs.5000/- and where the contravention is a continuing one, with a further fine which may extend to Rs.500 for every day after the first during which the contravention continues. The RoC has therefore recommended the imposition of the maximum fine in terms of Section 629A of the Companies Act, 1956 which tantamounts to Rs.10,51,500/- on the Company and on each of the petitioners.

3. The petitioners have contended that the defaults have been made good by passing a Board Meeting on 20.05.2014. It is argued on their behalf that the said omission was inadvertent, no loss of revenue has occurred either to the Government, the exchequer or any other stakeholder whatsoever. It is further stated that the applicants are not charged with any offence under the Indian Penal Code and no mensrea has been attributed.

4. Notice of this petition was also served on the SFIO. They have not been able to satisfy this Bench that the aforesaid compounding on account of non compliance would in any way hamper any alleged investigation of the affairs of the company. The compounding is on account of non adherence to the technicalities of statutory compliances, which were inadvertently not adhered to. Further, such compounding of a default, which has otherwise been since rectified, cannot in any manner prejudice the alleged investigations or prosecution by the SFIO.

5. The petitioners claim that the default has been made good vide a resolution passed on 20.05.2014. The SFIO/ RoC have not been able to repudiate the same. Since there is no legal impediment in compounding the offence of sec. 297(1) as prayed for in the present petition, I deem it sufficient to impose a

composite fine of Rs. 10,000/- on the company and on each of the petitioners. However the compounding of the offence shall be without prejudice to any alleged or intended prosecution under the penal code and shall not be taken as a defence.

6. Subject to the remittance of the aforesaid fine within 15 days, the offence shall stand compounded. Copy of the order be sent to the office of the RoC. Compliance Report be placed on record.
7. Petition stands disposed off in terms of the above.

Sd-

(Ina Malhotra)
Member Judicial