

NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

T.C.P No. 05/(MAH)/2016  
MA No. 168/2016

CORAM:

Present:

SHRI B.S.V. PRAKASH KUMAR  
MEMBER (J)

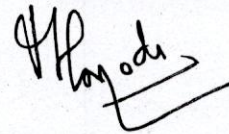

SHRI V. NALLASENAPATHY  
MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 20.12.2016

NAME OF THE PARTIES: M/s. Valecha Engineering Limited

SECTION OF THE COMPANIES ACT: 74(2) of the Companies Act 2013.

S. No.	NAME	DESIGNATION	SIGNATURE
--------	------	-------------	-----------

1	Vijay Q. de	Company Secretary	
2	Mr. Mayur Khandekar	Counsel	
3	Mr. Mayur Shetty		
4	Mr. Amit Iyer		
5	Ms. Sulakshna Sinha		

Order

MA No.168/2016 in CP No.05/74(2)/NCLT/MB/MAH/2016

When the Petitioner side filed this Application on 31.3.2015 for extension of time for payment of ₹40,69,22,000 due to 8627 depositors, since the Officer was not there in CLB for a considerable period, this matter ultimately came for hearing before CLB, Delhi Bench on 20.2.2016, by the time, the total amount that was payable to the Depositors was 38,48,08,000.

Cont.. on pg.2



On perusal of this CA, it is evident that Whole-time Director namely Mr. Dinesh Hariram Valecha undertook to make the payments to the Depositors with the breakup as mentioned below:

Sr. No.	Particulars	Amount (Rs. In lacs)
1.	Current outstanding of @1,741,.58 lacs i.e. as on 31.12.2015 will be repaid between Marchs 2016 to December 2016 as under :	
	March, 2016	
	April, 2016	100
	May, 2016	100
	June, 2016	100
	July, 2016	100
	August, 2016	141.58
	September	240
	October, 2016	240
	November, 2016	240
	December, 2016	240
		240
	Total of 1	1741.58
2.	Balance amount of Rs.2,103.50 lacs shall be repaid quarterly as under :	
	Jan 2017 – March 2017	
	April 2017 – Jun 2017	1051.75
		1051.75
	Total of 2	2103.50
3.	Grand Total	3845.08

Cont... on pg.3



In the amount mentioned above, the interest accrued thereafter has not been included. For that, the above Director gave further undertaking that the company would pay interest accrued till 31.1.2016 on the aforesaid deposits immediately on or before 29.2.2016 and further undertaking that the company would continue to pay interest to all the Depositors honestly on every deposit to be paid.

The above order was passed on 22.6.2016 on the undertaking of whole time director that the company would pay ₹1 crore every month from January 2016 to July 2016, in the month of August 2016 ₹1.41crores, from September to December ₹2.4 crores every month. As to remaining balance ₹21.03 crores in two equal instalments, i.e., January 2017-March 2017 and March 2017 -June 2017. Out of the outstanding ₹17crores payable in the year 2016, the company only repaid ₹70lacs, which is not even 5% of the amount payable in the year 2016. The Company Secretary has not even given any particulars in relation to making payment of ₹70 lakhs to the Depositors. That apart, quarterly interest payments have also not been made.

When this matter came up for hearing on 16.12.2016, the Bench Officer/Asst. Director of NCLT, whom this Bench appointed as Member of Hardship Committee reported that the company has not only failed to comply with the orders dated 22.2.2016 passed by the Company Law Board, Delhi Bench, but also failed to respond to the notice dated 24.5.2016 given seeking compliance of the order dated 22.2.2016. He further submits that NCLT, Mumbai has been continuously receiving complaints against the company from various depositors for non-compliance of the order dated 22.2.2016.

On perusal of the happenings, this Bench believes that the company is not bothered to comply with the order of this Bench, without realizing that the order dated 22.2.2016 was passed basing on the undertaking given by the Whole-time Director of the company.



Looking at the company making 5% payment out of the due outstanding, this Bench is of the firm opinion that it will not be of any use giving any further extension for making payments to the Depositors.

The Company secretary started saying that though the application u/s 74(2) has not come for hearing, this Bench has taken up this issue suo moto when this case came before this Bench on the application filed u/s 73(4) by a depositor. The answer for it is that there is no bar on this Bench from looking into it as to whether order for payment to the depositors has been complied with or not.

In view of the above facts, this Application is hereby dismissed giving liberty to the Registrar of Companies to take appropriate action against the company as stated u/s.74(3) of the Companies Act, 2013.

Accordingly, this Application is dismissed for non-compliance of the order dated 22.2.2016.

Sd/-

**B.S.V. PRAKASH KUMAR**  
Member (Judicial)

Sd/-

**V. NALLASENAPATHY**  
Member (Technical)