

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

CORAM:

Present:

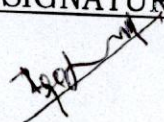
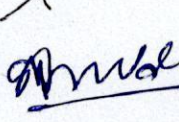
T.C.P No. 107/(MAH)/2012
CA No.
SHRI B.S.V. PRAKASH KUMAR
MEMBER (J)

SHRI V. NALLASENAPATHY
MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 10.01.2017

NAME OF THE PARTIES: M/s. SCHIL Services Ltd.

SECTION OF THE COMPANIES ACT: 621A of the Companies Act 1956 and
441 of the Companies Act, 2013.

S. No.	NAME	DESIGNATION	SIGNATURE
6	Beo Joseph	Prosecutor	
	SHRI GIRISH KULKARNI a/w M.S. BHARDWAJ Shri Darshan & Shri V.P. Verma	Advocate for Applicants/ petitioners	

Order

TCP No. 107/621A/CLB/MB/MAH/2012

The petitioners filed this CP u/s 621A of the Companies Act 1956 for compounding offence alleged to have committed u/s.193 of the Companies Act, 1956 for having ROC, Mumbai filed a case before the Magistrate Court 38 ACMM, Ballard Pier, Mumbai on the ground that Board of directors failed to file minutes within 30 days from the date of Board meeting.

When these petitioners have sought for compounding of the default of non-filing minutes the on the ground that this offence is compoundable u/s.621A of the Companies Act, 1956, the Counsel appearing on behalf of the SFIO objected to this compounding against the petitioners on the ground SFIO already filed another complaint on the same facts u/s.463, 468, 471, 463, 464, 477A read with 406, 418, 107, 409, 120A r/w 120B of the IPC and they being charges serious in nature and non-compoundable, this case cannot be compounded u/s.621A of the Companies Act, 1956.

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When the Applicant has been directed to argue on this point, today the Counsel appearing on behalf of the petitioners, has come out with an argument that the case filed under sec.193 of the Companies Act, 1956 has been pending before Magistrate Court 40 ACMM, Girgaon whereas the case filed u/s.438, 477 r/w 463,464, 477A and 120B of the IPC pending before another Court namely 38th ACMM, Ballard Pier. Since these two cases being separate and pending before separate courts for separate trials, it cannot be said now the offence u/s.193 cannot be compounded u/s.621A on the ground another case pending u/s. 468, 471, r/w 463, 464, 477A and 120B of IPC, because cases are separate and trials of the same obviously be separate.

On hearing such submissions from the Applicant Company, the Counsel appearing on behalf of SFIO submits that they will initiate proceedings for transfer of this case to other court where the case with charges of forgery etc. pending on the same set of facts.

The Counsel appearing on behalf of SFIO has been repeatedly asked to argue as to how this case u/s 193 of Companies Act 1956 is not compoundable though separate trials are initiated before separate courts, but, so far the Counsel could not make submissions fortifying the objections raised by him.

However, this Bench hereby gives last opportunity to the Counsel appearing on behalf of SFIO to substantiate the objections raised by him on the next date of appearance, failing which, this Application will be decided basing on the arguments submitted by the Applicants counsel.

At request of the SFIO counsel, list this matter for hearing on 19.1.2017.

Sd/-

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

Sd/-

V. NALLASENAPATHY
Member (Technical)