

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
T.P.NO. 294/2016**

DATED: FRIDAY THE 7TH DAY OF APRIL 2017

**PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI. ASHOK KUMAR MISHRA, MEMBER TECHNICAL**

**IN THE MATTER OF COMPANIES ACT, 1956
UNDER SECTION 297 READ WITH SECTION 621A
OF THE COMPANIES ACT, 1956**

AND

**IN THE MATTER OF M/s MANIPAL INTEGRATED SERVICES
PRIVATE LIMITED**

T.P.NO. 294/2016

**M/S Manipal Integrated Services Private Limited,
B-1 Tower, 3rd Floor, Golden Enclave,
Old Airport Road,
Bangalore-560017.**

APPLICANT

PARTIES PRESENT:

Ms. Jyotika Kamath, # 3314/1, 13th Main, 7th Cross,
HAL 2nd Stage, Indiranagar, Bangalore-560008 -
Practicing Company Secretary & Authorised
Representative for the Applicants.

Heard on: 20/01/2017, 13/02/2017, 28/02/2017 and 13/03/2017.

ORDER

The Application was originally filed before the Company Law Board, Southern Region, Chennai under Section 621A of the Companies Act, 1956 for the purpose of compounding for violation of provisions of Section 297 of the Companies Act, 1956. Consequent upon the establishment of National Company Law Tribunal Bench at Bengaluru, the said case was transferred to this Tribunal on abolition of Company Law Board, Southern Region, Chennai Bench and numbered as T.P No. 294/2016.

The averments made in the Company Application are briefly described hereunder:-

The Applicant Company was incorporated under the Companies Act, 1956 on 9th January 2004 as a Private Limited Company in the name and style of "Manipal Integrated Services Private Limited" vide CIN No. **U74140KA2004PTC033168**. The Registered office of the company is situated at B-1 Tower, 3rd Floor, Golden enclave, Old Airport Road, Bangalore-560017.

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The Authorized share capital of the Applicant Company is Rs. 20,00,00,000/- consisting of 2,00,00,000 Equity Shares of Rs 10/- each.

The Main objects of the Petitioner Company is engaged in the business of providing all or any types, description, classifications, kinds, forms and varieties of services, including but not limited to facilities management service, student staying facility, housekeeping, equipment repair, laundry and linen management, food service management, transport and logistic management, IT based marketing, advertising relating to sales, distribution, for specialized training to any persons whomsoever in the field of integrated facilities management services etc.,

It is averred in the Company Application that, during the period from 1st April 2013 to 31st March 2014 the Petitioner Company has entered into a contract with Manipal Health Enterprises Private Limited in order to avail health check-up services for the employees of Manipal Integrated Services Private Limited on certain terms and conditions for the mutually agreed professional fees which rounded off to Rs. 23,70,387/- in which certain Directors of the company are interested, but due to oversight prior approval of the Central Government was not obtained for the agreement and the period of default is from 1st April 2013 to 7th August 2013, thereby there was a delay of 129 days. It is further averred that, the Company has obtained approval of the Central Government vide letter dated 10th October 2013 of Regional Director (South East Region) Hyderabad in letter No. 10/B/662/2013 for subsequent period covering 08/08/2013 to 31/03/2016 and further it had obtained shareholders approval under section 188 of the Companies Act, 2013 for the subsequent period 01/09/2015 to 31/03/2017, although Regional Director approval exists for the period 1st April 2015 to 31st March 2016, but in averments Petitioner has stated as above.

Thus there was violation of provisions of section 297 of the Companies Act, 1956. This suo-motto application is filed by the Petitioner Company under section 621A of the Companies Act, 1956 for compounding the violation of section 297 of the Companies Act, 1956 which is punishable under section 629A of the Act.

Section 297 (1) of the Companies Act, 1956 reads as follows:-

“Except with the consent of the Board of Directors of a company, a director of the company or his relative, a firm in which such a director or relative is a partner, any other partner in such a firm, or a private company of which the director is a member or director, shall not enter into any contract with the company –

- (a) for the sale, purchase or supply of any goods, materials or services, or
- (b) after the commencement of this Act, for underwriting the subscription of any shares in, or debentures of, the Company”.

Provided that in the case of a company having a paid- up share capital of not less than rupees one crore, no such contract shall be entered into except with the previous approval of the Central Government.

Prior approval of the Central Government was not obtained in entering into agreement. Thus there was violation of section 297 of the Companies Act, 1956 which is punishable under section 629A which reads as follows:-

“If a company or any other person contravenes any provision of this Act for which no punishment is provided elsewhere in this Act or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to Rs 5,000/- 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”.

We have heard Practicing Company Secretary for Petitioner Company who contended that transactions are at the arms' length and based on market value. The Practicing Company Secretary also filed written submissions and contended that violation can be compounded under section 621A of the Companies Act, 1956. She prayed to take lenient view while compounding the violation. On perusal of the record, it appears that there is some confusion with regard to the Directors who were in default and originally Company petition was filed by the Company only for compounding and during the course of hearing on 13th March 2017, the Practicing Company Secretary for Petitioner Company contended that, the offence may be compounded only against the Company which has filed the original application for compounding.

We have perused the documents filed along with application, we have seen extract of the Minutes of the meeting of the Board Meeting held 1st July 2014. Report from the Registrar of Companies, Karnataka at Bangalore was received vide letter No. ROCB/MMM/621A/033168/2015 dated 27/08/2015 and after going through the Company Petition under section 621A of the Companies Act, 1956 and further submissions made by the Practicing Company Secretary for the Petitioner Company and the observations of the Registrar of Companies, we hereby propose to levy the compounding fee on the Petitioner Company as set out in the table given hereunder:-

Sl. No.	Particulars	Violation of Sec.297(1) of the Companies Act, 1956	No. of days delay	Total Rs.
1	Petitioner Company	Rs. 1,000/-	129 x 50 = 6,450/-	7,450/-

The compounding fee levied shall be paid by the Petitioner Company within 15 days from the date of this order and call this matter on 21st April 2017 for compliance.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 21st DAY OF APRIL, 2017