

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

**C.P.NO. 70/2017**

**C/W**

**C.P.NO. 83/2017**

**IN THE MATTER OF COMPANIES ACT, 1956  
UNDER SECTION 210 READ WITH SECTION 621A  
OF THE COMPANIES ACT, 1956**

**AND**

**IN THE MATTER OF  
M/s L-1 IDENTITY SOLUTIONS OPERATING COMPANY  
PRIVATE LIMITED**

Judgement/Order delivered on: **21<sup>st</sup> September 2017**

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)  
Hon'ble Sri Ashok Kumar Mishra, Member (Technical)

1. **Mr. Jean Marc Pincemaille - Director,**  
**26, Rue Des Dentellieres, Meru, 60110, France.**
2. **Mr. Yves Charles Marie Charvin – Director,**  
**73, Rue de la Bievre,**  
**Bourg La Reine, 92340, France. -**

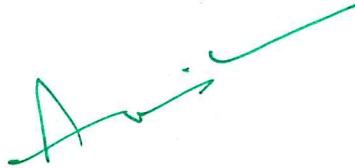
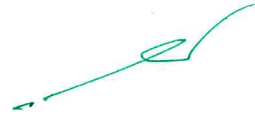
**APPLICANTS**

For the Applicant (s): Mr. Biswajit Ghosh, No.926, 20<sup>th</sup> Main, Near BDA  
Complex, Banashankari 2<sup>nd</sup> Stage, Bangalore-  
560070 -Practicing Company Secretary &  
Authorised Representative for the Applicants.

**Per: Hon'ble Shri Ashok Kumar Mishra, Member (Technical) – Author**

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On verification of the records, it is ascertained that, the Applicants filed two applications for compounding of violation under the provisions of Companies Act, 1956 separately for each year. The Registrar of Companies, Karnataka, Bangalore, has also given report for default period of 2 years i.e., 2010-11 and 2011-12 which are numbered as C.P No. 70/2017 and 83/2017 on the file of this Tribunal. It is decided to combine these Applications in order to compound the violation. Henceforth:

### COMMON ORDER

These Applications were filed by the Applicants under Section 621A of the Companies Act, 1956 for the purpose of compounding for violation of provisions of Section 210 of the Companies Act, 1956.

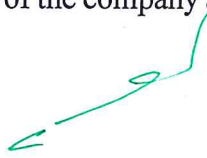

The averments made in the Company Applications are briefed as hereunder:-

The Company was incorporated under the Companies Act, 1956 on 4<sup>th</sup> June 2010, as a Private Limited Company under the name and style of “**L-1 Identity Solutions Operating Company Private Limited**” vide CIN No. **U4900KA2010PTC053951**. The Registered office of the company is situated at No.9, Vatika Business Centre, 2<sup>nd</sup> Floor, A Wing Divyashree Chambers, 11 O’Shaughnessy Road, Bangalore-560025.

The Authorized share capital of the Company is Rs. 1,00,00,000/- divided into 10,00,000 Equity Shares of Rs 10/- each and the paid up capital of the Company is Rs. 82,98,000/- divided into 8,29,800 Equity Shares of Rs 10/- each.

The Main objects of the Company is to carry on the business of developing, designing, licensing, testing, selling and marketing and otherwise dealing in information technology products and services including those used for the purposes of securing, identifying and protecting personal identities and assets by providing state-of-the-art technologies that capture, store, manage and distribute biometric data using biometric technology etc., Details of the objects of the company are mentioned in the Memorandum and Articles of Association of the Company Application (shown as **Annexure-A1** of the Petition).

It is further averred in the Company Application that, the Applicants could not place the Annual Accounts of the Company for the financial year ending 31<sup>st</sup> March 2011 and 31<sup>st</sup> March 2012 at the Annual General Meeting within the stipulated period as required under Section 210 of the Companies Act, 1956 due to the reasons that, the Company could not conduct its Annual General Meeting for the financial years 2010-11 and 2011-12 within the stipulated period under the Companies Act, 1956. The Annual General Meetings were held after its due date. The reason is that, the Directors of the Company could not sign the Balance Sheet and Profit and Loss Account before the due date for convening the Annual General Meeting as they were involved in developing the business of the company and there



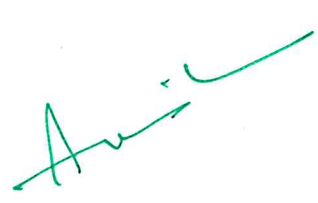
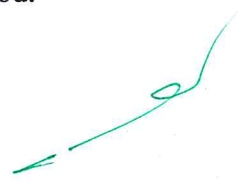


was no one to guide the company and also there was a change in the management and ownership of the company during mid of July 2011 and hence the finalization of accounts was delayed and the company could not conduct the Annual General Meetings as required under the provisions of section 166 of the Companies Act, 1956. The Practicing Company Secretary further stated that, the company since its incorporation, has been closely held private limited company with its number of shareholders not crossing beyond three and there being no involvement of public in any form. The company had a few employees on its rolls and most of them have been dedicated towards developing the business of the company with requisite technical background and due to lack of knowledge of the requirements of compliances under Companies Act, 1956 the company fails to comply with the provisions of section 210 of the Companies Act, 1956. However, the Annual General Meetings for the financial years 2010-11 and 2011-12 has been convened belatedly on 29<sup>th</sup> September 2012 and 12<sup>th</sup> July 2013 in which, inter alia, the annual audited accounts for the year ending 31<sup>st</sup> March 2011 and 31<sup>st</sup> March 2012 were placed before the members of the Company.

We have heard at length the Practicing Company Secretary for Applicants, who contended that, this is a suo-moto application filed by the Applicants for compounding of violation committed under section 210 of the Companies Act, 1956. The Practicing Company Secretary would contend that, the default occurred due to acquisition of the company, by virtue of which there was a change in the management and ownership of the company during the middle of July 2011. Since there was a change in the entire management team, the finalization of the accounts was delayed. He further contended that, there was no willful nor wanton and it was occurred beyond the control of the applicants and would further contend that, a lenient view may be taken while compounding the offence.

Section 210(1) of the Companies Act, 1956, provides that:-

At every annual general meeting of a company held in pursuance of section 166, the Board of directors of the company shall lay before the company –

- (a) a balance sheet as at the end of the period specified in sub-section (3); and
  - (b) a profit and loss account for that period.
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Section 210(3) (b) of the Companies Act, 1956 states as follows:

“in the case of any subsequent annual general meeting of the company, to the period beginning with the day immediately after the period for which the account was last submitted and ending with a day which shall not precede the day of the meeting by more than six months, or in cases where an extension of time has been granted for holding the meeting under the second proviso to sub-section (1) of section 166, by more than six months and the extension so granted”

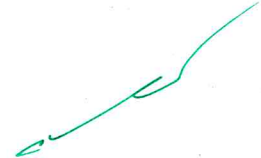
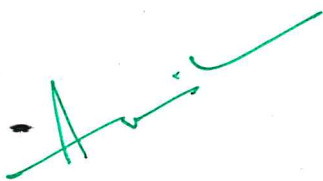
For the violation of section 210(1) of the Companies Act, 1956, the punishment is provided under sub-section (5) of section 210 of the Companies Act, 1956 reads as follows:-

“If any person, being a director of a company, fails to take all reasonable steps to comply with the provisions of this section, he shall, in respect of each offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to Rs 10,000/- or with both.”

This Application was filed under section 621A of the Companies Act, 1956. The provisions of section 441 of the Companies Act, 2013 came into effect from 1<sup>st</sup> June 2016. This Application was filed before Registrar of Companies, Karnataka, Bangalore on 26<sup>th</sup> April 2016. Therefore, this application is to be decided under the provisions of section 621A of the Companies Act, 1956.

The Registrar of Companies, Karnataka, Bangalore vide its letters bearing No. ROCB/AHN/STA/53951/210(2011)/2016 dated 09/05/2017 and 12.06/2017 has stated in his report that, the Company has admitted the default and has offered to compound the offence and the Compounding Application may be decided on merits.

We have seen the Certified Copy of the extract of Board Resolution dated 16<sup>th</sup> December 2015 and 16<sup>th</sup> June 2017 of the Company wherein the Board of Directors resolved for filing compounding Application:-



“RESOLVED THAT the approval of the Directors of the Company be and is hereby accorded for making an application to the Company Law Board/Regional Director through the Registrar of companies, Karnataka, under section 621A of the Companies Act, 1956 to compound the offences committed by the Company under Sections 159, 166, 210, 220 and 383A of the Companies Act, 1956 in relation to delay / default in holding Annual General Meeting, adoption of the accounts and filing of the Annual Accounts and Annual return in relation to the Company’s financial year 2010-11 and 2011-12.”

We have seen copy of e-Form No. GNL-1 along with the challans filed with the Registrar of Companies, Karnataka, Bangalore on 15/03/2016. We have also seen Audited financial statements for the years 2010-11 and 2011-12. After considering the materials on record and after taking into account the submissions made by the Practicing Company Secretary for the Applicants, that a lenient view may be taken, we hereby levy the compounding fee for violation of section 210 of the Companies Act, 1956 on the Applicants as shown in the table given below:-

Sl. No.	Particulars	Violation of Sec.210 of Companies Act, 1956 with No. of days delay		Grand Total Rs.
		2010-11	2011-12	
1	1 <sup>st</sup> Applicant-Director	6,000/-	6,000/-	12,000/-
1	2 <sup>nd</sup> Applicant-Director	6,000/-	6,000/-	12,000/-

The compounding fee levied shall be paid by the Applicants within 15 days from the date of this order and call this matter on 5<sup>th</sup> October 2017 for compliance.

  
**(ASHOK KUMAR MISHRA)**  
 MEMBER, TECHNICAL

  
**(RATAKONDA MURALI)**  
 MEMBER, JUDICIAL