

**In the National Company Law Tribunal
Single Bench, Chennai**

CA 44/CB/2017

In the matter of Section 441 of the Companies Act, 2013

M/s. RR Donnelley Publishing India Pvt Ltd
Vs
Registrar of Companies, Chennai

Order delivered on: 30.06.2017

For the Applicants : Ms.Swetha Subramanian, PCS

Per : **Anantha Padmanabha Swamy, Member (J)**

ORDER

1. Under consideration is an application which has been filed by Applicants before the Registrar of Companies, Tamil Nadu and Andaman & Nicobar Islands, Chennai, for compounding of the offences u/s 441 of the Companies Act, 2013. The Deputy Registrar of Companies, along with his report dated 24.05.2017, has forwarded the Application to the Registry of this Bench which has been numbered as C.A.No.44/CB/2017.

2. The Applicants are the Company and its three officers who have filed e-form No. GNL-1 under SRN : G38560843 for violation of the provisions of Sub-section (1) of Section 96 of the Companies Act, 2013. As per the report of the ROC, the committal of offence relates to the period between 01.10.2016 and 20.01.2017. The offence arose when the Company and its officers failed to hold the Annual General Meeting (AGM) within six months from the date of closing of the financial year or 15 months from the

date of previous AGM whichever is earlier. The Company has closed its accounting period on 31.03.2016.

3. Meanwhile, the Applicants made an application on 29.09.2016 (vide SRN : G12763249) before the Registrar of Companies requesting for extension of time by three months, on the grounds that the Company needs further time to finalize the accounts for the financial year ending 31.03.2016 and to complete the audit, due to lack of sufficient manpower in the Accounts Department arising from a Company-wide retrenchment. The Registrar of Companies fairly conceded their request and enlarged the time by two months with a condition to complete the process of holding the AGM on or before 29.11.2016. Sub-Section (1) of Sec.96 of the Companies Act, 2013 provides as follows:-

“Every Company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next”

In the present case, the AGM was held only on 21.01.2017 after exhausting the extension of time, i.e., causing a delay of 112 days. It appears that the Applicant has not made use of the opportunity given by the ROC in the matter of extension of time for conducting AGM. Therefore, the Company and its officers who are applicants have violated the provisions of Sub-Section (1) of Section 96 of the Companies Act, 2013.

4. The violation is punishable under Section 99 of the Act, 2013 which provides if any default is made in holding a meeting of the company in accordance with Section 96

or Section 97 or Section 98 or in complying with any directions of the Tribunal, the Company and every officer of the company who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default.

5. The Deputy Registrar of Companies, Tamil Nadu vide its report dated 24.05.2017 in file No.RRdonn/58416/96/ROC/2016 has recommended to impose maximum fine of Rs.6,60,000/- to the Company and Rs.6,60,000/- to each of the errant officers. The Deputy Registrar of Companies indicated in his report that there is no prosecution pending for the above said offence and that he has no objection if the offence is compounded, but at the same time, has requested that the Company may be directed to file e-form INC28 along with the compounding order, if passed.

6. In the light of the above, the applicants (the Company and the two officers mentioned above) are liable to be penalized under section 99 of the Companies Act 2013, for violation of the provisions of Sub-section (1) of Section 96 of the Companies Act, 2013.

7. The Applicants pleaded for taking lenient view while imposing the fine on the ground that this is the first offence committed by them. The ROC report also confirms the same being the first offence. Considering this plea and also the reasons stated in the petition and during the submissions, the Bench feels that this is a fit case where lenient view can be taken. Therefore, the application of the Company and the officers in default is allowed and the offence committed under section 96(1) of the Act during the period from 01.10.2016 and 20.01.2017 is compounded in exercise of the powers

conferred under section 441 of Companies Act, 2013, by imposing the fine in the following manner :-

Penalty u/s 99

Defaulter	Violation section	Period of violation	Fine Amount
M/s. RR Donnelley Publishing India Pvt Ltd	96	From 01.10.2016 to 20.01.2017	Rs.50,000/- + Rs.56,000 (Rs.500 x 112 days) = Rs.1,06,000/-
Gopal Madhan Kumar	96	From 01.10.2016 to 20.01.2017	Rs.25,000/- + Rs.56,000 (Rs.500 x 112 days) = Rs.81,000/-
JayaprakashGunasekaran	96	From 01.10.2016 to 20.01.2017	Rs.25,000/- + Rs.56,000 (Rs.500 x 112 days) = Rs.81,000/-

The applicant company is directed to pay the penalty from the accounts of the company and the officers in default are directed to pay the penalty from their own resources. All the three applicants shall comply with the order within three weeks from the date of this order. The company is directed to file e-form INC 28 along with a copy of this order with the Registrar of Companies, Chennai, within the time prescribed.

8. Accordingly, the application is disposed of. The copy of the order will be issued to the applicants forthwith for compliance and other necessary action.


(ANANTHA PADMANABHA SWAMY)
MEMBER (J)