

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

CA/58/441//2017

Under Section 621A r/w section 211 of the Companies Act, 1956

In the matter of

M/s. Binny Limited

V/s

Registrar of companies, Southern Region

Order delivered on: 04.08.2017

For the Petitioners: Mr. A.G. Sathyanarayana, Advocate

Per: ANANTHA PADMANABHA SWAMY, MEMBER (J)

ORDER

1. Under consideration is an application which has been filed before the Registrar of Companies, Tamil Nadu and Andaman & Nicobar Islands, Chennai for compounding of the offences u/s 621A, for violation of the provisions of Section 211 of the Companies Act, 1956 r/w section 233(11) of the said Act. The Deputy Registrar of Companies, along with his report dated 30.05.2017, has forwarded the Application to the Registry of this Bench which has been numbered as CA/58/441/2017.

2. Shri Aravind Nandagopal, Managing Director of the company is the Applicant. He has filed e-form no. GNL-1 under SRN: C56138860 dated 18.06.2015. The RoC made technical scrutiny of the Balance sheet of the company for the financial year ended on 31.03.2011. It was observed from

schedule 10 to the said profit and loss account under “other income” the company has earned interest income of Rs. 16.42 lakhs as at 31.03.2011. However, the company has not specified the nature of the interest income in compliance of section 211 r/w part- II para 3(xi) (b) and (c) of schedule VI of the Act 1956 and hence the requirement of section 211 r/w part II of schedule VI of the Act has been violated.. The applicants made prayers which are as follows:

The applicants humbly pray that the offence under Section 211 of the Companies Act, 1956 r/w section 233(11) of the said Act may be compounded by levy of minimum compounding fee and suitable orders as may be passed for compounding the offence committed under the aforementioned sections and render justice.

3. The committal of offence relates to the period 01.04.2010 to 31.03.2011. The maximum amount of fine under the charging section as calculated by the ROC, Tamilnadu, Chennai in his report dated 30.05.2017 are as follows:-

Penalty u/s 211(7) of the Companies Act, 1956

Defaulter	Violation Section	Period of violation	Maximum fine
Shri Aravind Nandagopal, Managing Director	211 punishable u/s 211(7) of CA 1956	01.04.2010 to 31.03.2011	Punishable with imprisonment for a term which may extend to 6 months or with fine which may extend to Rs. 10000/- or with both

4. The Registrar of companies in his report made it clear that the offence is made good and the applicant himself has filed the compounding application.

5. However, the ROC stated that he has no objection if the offence is compounded and submitted that the company may be directed to file e-form INC 28 along with compounding order, if passed.

6. Heard learned counsel for Applicant. It is submitted that the defaulter, Shri Aravind Nandagopal, Managing Director approached RoC admitting the violation of the above said provisions with a prayer to compound the aforesaid offences by imposing fine. It is further submitted that a lenient view may be taken while imposing the fine for the reason that the delay in compliance with the requirement of provisions of section 211 of the said Act for the aforesaid financial years is neither wilful nor wanton and the above said events are not under the control of the Managing Director. It was further submitted that no prejudice will be caused to any person if the said offence is compounded.

7. Considering these submissions, this Bench is inclined to take a lenient view and allow the compounding of the offences committed under section 621A of the Companies Act, 1956 r/w section 211 of the said Act by imposing the fine on the applicant as follows:

Penalty u/s 211 (7) of the Companies Act, 1956

Defaulters	Violation Section	Period of violation	Fine imposed
Shri Aravind Nandagopal, Managing Director	211 punishable u/s 211(7) of CA 1956	01.04.2010 to 31.03.2011	5000/-

8. The Applicant-officer (Managing Director) in default is directed to pay the penalty from his own resources. The Applicant 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.

9. 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)