

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

C.A.No. 46/621A/HDB/2016

Date of order: 30.12.2016

Between:

M/s. Kaveri Seed Company Limited,
513-B, 5th Floor, Minerva Complex, S.D. Road,
Secunderabad – 500003,
Hyderabad – 500038.
represented by its Managing Director.

...Applicant

And

The Registrar of Companies, Hyderabad
For the States of Telangana and Andhra Pradesh
2nd Floor, Corporate Bhavan,
GSI Post, Near Indu Aranya,
Thatti Annaram, Hyderabad,
Telangana-500068

...Respondent

Counsel for the Applicants

... Shri L. Dhananjay Reddy, PCS

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Hon'ble Mr. RAJESWARA RAO VITTANALA, MEMBER (JUDICIAL)

Hon'ble Mr. RAVIKUMAR DURAISAMY, MEMBER (TECHNICAL)

ORDER

(As per Rajeswara Rao Vittanala, Member (J))

1. The present Company Application was initially filed before the Hon'ble
Company Law Board, Chennai Bench, Chennai. Upon the constitution



of NCLT Bench at Hyderabad for the cases pertaining to the States of Andhra Pradesh and Telangana, the present case papers without allotting number is transferred to Hyderabad Bench of NCLT. Hence, fresh case number has been allotted by NCLT, Hyderabad Bench and thus deciding it.

2. The present application (herein after referred to as application) dated 16.11.2013 was filed by the applicant, under Section 621A of Companies Act, 1956 (referred to as "Act" hereinafter) before CLB/Chennai praying the Tribunal for compounding of the offences committed under Section 211 read with Schedule VI of Act by admitting their defaults in complying with the said provisions.
3. The learned PCS submits that Kaveri Seeds Company Limited was originally incorporated on 27.08.1986, under the provisions of the Companies Act, 1956. Its registration number is L01120AP1986PLC006728 and, its office is situated at 513-B, 5th Floor, Minerva Complex, S.D. Road, Secunderabad – 500003. The authorised capital of the Company is Rs.20 Crore (Rupees Twenty Crores only) divided into 2 Crore equity shares of Rs.10/- each. The Paid up Capital of the company is Rs.13,81,10,190/- (Rupees Thirteen Crores Eighty one Lakhs Ten Thousand One Hundred Ninety only) divided into 1,38,11,019 (One Crore Thirty Eight Lakhs Eleven Thousand and Nineteen) equity shares of Rs.10/- each. And the present business of the



company is production and marketing of Hybrid Seeds and Micronutrients

4. We have heard Shri L. Dhananjay Reddy, PCS for Applicants and, carefully perused various averments made in the application along with material papers and, the reports furnished by the Registrar of Companies (RoC) in the case.
5. The learned PCS submits that the Company was issued show cause notice vide RefNo. RAP/DROC(D)/CK/234/Kaveri/Sec.211/1664 dated 20.09.2013.

The Regional Director, Southern Region, Ministry of Corporate Affairs Chennai has ordered technical scrutiny of the accounts of the Company. As per the show cause notice mentioned above, it is observed that related to Section 211 read with Schedule VI of the Act, the company in notes to accounts, have stated that confirmation of balances have not yet been obtained. It is required to inform us the status and steps taken towards the compliance with this section. Since the company's reply on the issue was not satisfactory and, the company has not got confirmation of balances as there is an violation of non -compliance of Section 211 read with Schedule VI, the above show cause notice was issued show causing as to why action should not been taken for prosecution under Section 211(7)(8) for contravention of Section 211 of the Companies Act granting 15 days time for reply.



6. He further submitted that as per the Balance Sheet for the year ended 31st March 2007, the Company has made an investment with the intention of holding them for short period and hence the same was shown under current assets, which amounts to violation under section 211 of the Companies Act, 1956.

The investments of the company were sold during the year 2006-07. The profit/loss on the sale of the investments has been shown in the profit and loss account as capital gain (Schedule 13) of the P&L Account as on 31.03.2007. Therefore, the provisions of Section 211 read with Schedule VI of the Act have been complied with. The respective balance sheet is enclosed.

7. He has further submitted that the Company being Agricultural Seed Company during the off season, there were some idle funds. In order to make some profits out of that, the company made some short term investments. This was done in the best interest and for the benefit of the company. Therefore the non-compliance was neither intentional nor negligence on our part.

As per the Balance Sheet for the financial year ended 31st March 2007, the Company has specified "some of the balances under sundry debtors, sundry creditors, deposits, loans and advances payable/receivable are subject to confirmation and reconciliation".

Under the provisions of Section 211 read with Schedule VI of the Companies Act, 1956 non confirmation of balances of sundry



debtors/receivables is a violation. However, during subsequent years i.e. 31st March 2008, the company has reconciled the same and confirmed the sundry debtors, sundry creditors, and deposits, loans and advances payable/receivables.

8. The learned PCS submits that the Company being Agricultural Seed Company deals with farmers/dealers and distributors who are mostly unorganised. So getting confirmation of debtors and creditors etc. by the end of the financial years is difficult task and, thus it is an inevitable for this kind of business. Therefore, he submits that non-compliance was neither intentional nor deliberate on the part of the Company. In spite of the above difficulties, the company has taken suitable steps to obtain the above confirmation by the end of subsequent financial years. Therefore, he prays the Tribunal to permit the Company to compound the above offence.

9. The RoC submitted his report vide proceedings no. ROCH/LEGAL/SEC 211(7)&(8)/441/KSCL/STACK/2016/3819 dated 07.12.2016. The RoC has submitted that the company has admitted the violation of provisions of Section 211(7)(8) of the Companies Act 1956. As per the balance sheet for the year ended 31st March 2007, the company has made an investment with the intention of holding them for short period and thus the same was shown under current assets, which amounts to violation of Section 211 of the Act. It is further stated that the investment of the



Company were sold during the year 2006-07. The profit and loss on the sale of the investments have been shown in the profit and loss accounts as capital gain (Schedule 13) of P&L Account as on 31.03.2007. Therefore, the Company has complied with the provisions of Section 211 read with Schedule VI of the Act. It is further stated that it is first offence of the nature.

It is further stated that an officer in default for violation of the above provision 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, in terms of Section 211 (8 of the Act)

10. The Registrar of Companies has not opposed the application and left the issue to the NCLT to decide the issue on merits as per Law.

11. The facts as narrated above shows that the defaults in question are neither intentional nor deliberate on the part of the Company as submitted by the learned PCS for the Company. It is also not in dispute that the provisions of Section 211 read with Schedule VI of the Act were complied with subsequently. As stated above, the RoC has also not opposed the application for compounding of the offences and also confirmed that the offence in question is first of its nature committed by the Company.

12. We are satisfied that sufficient reasons have been shown in complying with the offences in question committed by the Company. And nobody's



interest is going to be effected if the present application is allowed for compounding the above offences. On the other hand, if the application is not allowed, the company would suffer for the consequential proceedings to be initiated by the Registrar of Companies. Hence, we are inclined to permit the applicant to compound the offences in question.

13. In the result the Company application bearing C.A. No. 46/621A/HDB/2016 is allowed permitting the applicant to compound offence in question by directing the applicant to pay Rs. 10,000/-, within a period of three weeks from the date of receipt of the copy of the order. And also comply the requirements, if any, sought/directed by the Registrar of Companies. Report compliance to the NCLT.

The Applicants are warned not to repeat any violation else strict action will be taken thereby. In view of the above, the case is disposed off.

Sd/-

RAVIKUMAR DURASAMY
MEMBER (T)



V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (J)

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